

Ottawa Light Rail Commission

Shawn Menard
on Monday, April 11, 2022



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6	OTTAWA LIGHT RAIL COMMISSION
7	CITY OF OTTAWA - SHAWN MENARD
8	APRIL 11, 2022
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14	--- Held via Zoom Videoconferencing, with all
15	participants attending remotely, on the 11th day of
16	April, 2022, 9:00 a.m. to 11:00 a.m.
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1 COMMISSION COUNSEL:

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3 Kate McGrann, Co-Lead Counsel Member

4 Liz McLellan, Litigation Counsel Member

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19 ALSO PRESENT:

20

21 Judith Caputo, Stenographer/Transcriptionist

22 Elizabeth Deasy, Virtual Technician

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1 * * The following is a list of documents undertaken
2 to be produced or other items to be followed up * *

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5

INDEX OF UNDERTAKINGS

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The documents to be produced are noted by U/T and

8

appear on the following pages: 47:16, 49:9, 50:10,

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67:18

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1 -- Upon commencing at 9:03 a.m.

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3 SHAWN MENARD: AFFIRMED.

4 KATE McGRANN: Mr. Menard, I'm just
5 going to provide you with some information about
6 the purpose of the interview and how the evidence
7 will be used, and then we will get started with the
8 questions.

9 This interview is being transcribed.
10 The Commission intends to enter this transcript
11 into evidence of the Commission's Public Hearings,
12 either at the hearing or by way of procedural order
13 before the hearings commence.

14 The transcript will be posted to the
15 Commission's website, along with any corrections
16 made to it after it is entered into evidence.

17 The transcript, along with any
18 corrections later made to it, will be shared with
19 the Commission's participants and their counsel on
20 a confidential basis before it is entered into
21 evidence.

22 You will be given the opportunity to
23 review your transcript and correct any typos or
24 other errors before the transcript is shared with
25 the participants or entered into evidence. Any

1 non-typographical corrections you request will be
2 appended to the transcript.

3 Finally, pursuant to Section 33 (6) of
4 the Public Inquiries Act 2009: A witness at an
5 inquiry shall be deemed to have objected to answer
6 any question asked him or her on the ground that
7 his or her answer may tend to incriminate the
8 witness, or may tend to establish his or his
9 liability to civil proceedings at the instance of
10 the Crown or of any person, and no answer given by
11 a witness of an inquiry shall be used or be
12 receivable in evidence against him or her in any
13 trial or other proceedings against him or her
14 thereafter taking place, other than a prosecution
15 for perjury, in giving such evidence.

16 As required by Section 33 (7) of that
17 act, you are hereby advised that you have the right
18 to object to answer any question under Section 5 of
19 the Canada Evidence Act.

20 Do you have any questions about that as
21 well?

22 SHAWN MENARD: I think that's good,
23 thank you.

24 KATE McGRANN: So turning to some
25 information about you, your work as a City

1 Councillor. I understand that you were elected in
2 2018; is that correct?

3 SHAWN MENARD: Yes.

4 KATE McGRANN: And you're currently in
5 the midst of your first term as City Councillor?

6 SHAWN MENARD: That's right.

7 KATE McGRANN: Could you give us a bit
8 of information about your professional background
9 before you began serving as a City Councillor?

10 SHAWN MENARD: Yes. After completing a
11 master's degree, I worked for the Federal
12 Government for about four or five years with the
13 Department of Justice as a risk management
14 specialist, corporate risk and legal risk. And
15 from there, I moved on to the Federation of
16 Canadian Municipalities, working as the manager of
17 government relations there.

18 Before starting a business, doing work
19 for other cities across the country individually
20 and then I was elected as a City Councillor in
21 2018.

22 KATE McGRANN: Did you have any
23 involvement in Stage 1 of Ottawa's LRT project
24 before your election to council in 2018?

25 SHAWN MENARD: Tangentially, I guess, I

1 was there, but very, very little. I was the
2 Vice-Chair of the Pedestrian and Transit Advisory
3 Committee at the City of Ottawa, back in 2000 and I
4 guess '8 and '9, around that time.

5 So the LRT had come across our -- we
6 received some information about it, but no decision
7 making in that regard.

8 KATE McGRANN: Do you know if that
9 group made any submissions or suggestions,
10 participated in any consultations with respect to
11 Stage 1 of the Ottawa LRT?

12 SHAWN MENARD: Yes, there would have
13 been some submissions from that, the group is an
14 Advisory Committee of the City, established, no
15 longer existing, but previously. And it was, you
16 know, would have made some submissions around LRT
17 and alignment, and you know, some of the aspects
18 that they were first consulting with. This was
19 very early for us at that stage, but there would
20 have been some input by PTAC at that time.

21 KATE McGRANN: Do you know whether any
22 of PTAC's submissions included sort of suggestions
23 for what should be done with the LRT that were not
24 ultimately embodied in what was put together?

25 SHAWN MENARD: I'm trying to recall. I

1 can't, I don't -- I can't recall, I'm sorry. I
2 should look back at some of those files, but those
3 files would be on record, certainly, from back
4 then.

5 KATE McGRANN: Would you describe for
6 us your involvement in Stage 1 of the LRT since
7 being elected as councillor?

8 SHAWN MENARD: My involvement has
9 mostly been with result to the initial delay, and
10 then the subsequent service issues and derailments
11 that have occurred.

12 It calls for accountability around
13 that, and reparation for future stages of LRT in
14 terms of incorporating what's occurred here and
15 lessons learned.

16 KATE McGRANN: When you say "the
17 initial delay", what delay are you referring to?

18 SHAWN MENARD: The initial Stage 1. I
19 think there was four missed handover dates, some of
20 those were while I was in office. That's what I
21 was referring to.

22 KATE McGRANN: Okay. You mentioned
23 accountability as something that's been an area of
24 focus for you; can you explain what you mean by
25 that?

1 SHAWN MENARD: Yes. I mean, I guess
2 the story of this is one that I think the City has
3 really failed to appropriately assess and mitigate
4 risk. And as a result, they put residents at great
5 risk, while avoiding accountability throughout
6 this.

7 The project is a public-private
8 partnership, and so accountability has been thrust
9 towards the private partner, without the City, I
10 guess, revealing information, being forthcoming
11 about the problems that were occurring early on,
12 and taking accountability for their own decisions
13 as a public body in what's occurred here by, I
14 guess, you know, requesting that this inquiry
15 happen in the first place, avoiding that. Avoiding
16 calls to the ombudsman to review the issues and
17 incidents that have occurred in Ottawa.

18 There's been, I guess, statements made
19 that are, you know, contradictory to what's
20 occurred. And we've had, you know, no one respond
21 in a management role, or an elected role, that
22 would signal any accountability, whether it be
23 resignation as a Transit Commissioner. We've had
24 early retirements -- or we've had retirements, but
25 not any apportionment of, you know, concern or, you

1 know, guilt with what has occurred.

2 So I think when we're talking about
3 accountability, I mean, owning up to the mess
4 that's occurred here and ensuring that, you know,
5 we tell the truth about what's happened, which is
6 not just maintenance issues that are occurring
7 here. The original build of the line, it was the
8 rush to launch, those issues have been -- I guess
9 not forthcoming in this administration, and that's
10 what I mean by "accountability".

11 KATE McGRANN: Okay. You mentioned
12 that the City failed to assess and mitigate risk.

13 What risks are you referring to when
14 you say "the City failed to assess risk"?

15 SHAWN MENARD: I mean the big risks
16 were the original procurement of the contract.
17 When you look back at those documents, it's very
18 clear that there was a lot of positivity, but the
19 risk section of those contracts were scant.

20 There was not a fulsome deliberation on
21 the risk of the procurement process, and the risk
22 of, you know, going into a design-build-finance and
23 maintain model. You can see the progression early
24 on from when they were considering a public system
25 versus a design-build, or design-bid-build. And

1 the risks associated with that were not, I guess,
2 fulsomely considered at that time. Not just for
3 the public-private partnership, but the push to get
4 a system launched; those risks were not effectively
5 mitigated.

6 And so I'm referring to the original
7 reports that I've read back from, you know, early
8 on in 2009, '10, '11 and '12, which were extremely
9 scant on risk issues, and did not go into any sort
10 of considerations or negative consequences
11 potentially from going out. It was very positive
12 about public-private partnerships, extremely
13 positive about a design-build-finance-maintain.

14 And the outcomes they were saying were
15 going to occur at that time, which was going to be
16 on time, on budget, that all of the risk lies with
17 the private sector, except in some very, like you
18 know, other instances. Like the, you know,
19 purchase of land, for example, where the City did
20 say there are some, you know, that's our
21 responsibility. There was very little risk
22 consideration in those documents.

23 So I think, you know, you also didn't
24 have -- the reports were glowing without any
25 challenge function, and a subservient council to

1 the Mayor, and extreme deference in delegation of
2 authority to staff. And so I think in those
3 situations, you're not going to get the best
4 result, because you don't have challenge functions
5 set up that are appropriate on council, or on a
6 staff team that was, I think, elated to try to get
7 LRT up and running in Ottawa.

8 KATE McGRANN: The documents that
9 you're referring to, you say they're between 2009
10 and 2012, can you give me -- I assume that these
11 are documents that -- like City documents that
12 you're referring to?

13 SHAWN MENARD: Yes, just public reports
14 on the functional design of the LRT during that
15 time. And the signing of the procurement contract.

16 KATE McGRANN: Could you be more
17 specific about the risks that you're referring to
18 when you say that these risks weren't considered,
19 or weren't considered enough before the project was
20 being launched?

21 SHAWN MENARD: I think there's a few
22 examples. So within the reports themselves, under
23 the "Risks Section", there is very little described
24 there in the risks section.

25 I think in one report it says, "there

1 are risks here", but they don't go into what they
2 are. There's no risk matrix, there's no mitigation
3 strategies associated with them. The consideration
4 of risk, you know, is not done in those reports, in
5 those public reports.

6 Furthermore, when you look back at some
7 of the analysis to go into a design-build-finance
8 and maintain model, there are risks that are not
9 apportioned to that model, and it's a problem with
10 P3s in general.

11 But there are risks associated with
12 legal risks that are not considered, and the costs
13 that may arise there. And risks with construction
14 delay that could occur; none of that is described.

15 There is, I think, other risks as well
16 that, you know, haven't, unfortunately, you know,
17 we didn't discuss at the time, or the council
18 didn't discuss at the time. The risk of a 30-year
19 maintenance contract without appropriate
20 competition built in throughout the length of the
21 contract; that's not discussed.

22 The lack of control of subcontractors,
23 which we've seen has been an issue, you know, with
24 Alstom.

25 The purchase of brand new trains off

1 the shelf, without first having rigorous real world
2 testing.

3 The purchase of more trains later on,
4 without having seen the original trains run, which
5 the City did do, they purchased more of these. And
6 did it in a way that, again, trying to get a lower
7 price, but again, the apportionment of risk there
8 was minimal.

9 What else can I mention? I think some
10 of those -- those are some of the main issues where
11 risks weren't described.

12 The reports themselves, again, are very
13 definitive in saying that a P3 model, a
14 design-build-finance-maintain is the best way to go
15 for all of, for these reasons, and that these
16 produce exceptional results.

17 And that, you know, I think that type
18 of assuredness doesn't serve anybody well in a
19 public sector environment when you are trying to
20 look at risk. It minimizes alternatives for
21 consideration of council, and really I think sets
22 councils off on a direction that makes it difficult
23 to approve those things when you see those types of
24 reports being produced.

25 On P3s, the value of risk is also

1 arbitrarily calculated and ascribed only to the
2 public procurement options. There's no value
3 ascribed to well-known P3 risks, such as the legal
4 battles; P3 partner defaults; you know, changes in
5 private sector interest rates; lower quality
6 materials and products; these are things that are
7 common in P3s as well, but I guess those are writ
8 large, not just related to Ottawa's situation.

9 KATE McGRANN: And what is your source
10 of reference for the list of commentary P3 risks
11 that you just listed there?

12 SHAWN MENARD: Bonnie Lysyk's reports
13 in Ontario have been very illuminating. I think
14 that's one of the best reviews of P3s, the cost of
15 P3s to municipalities, and bogus risk transfer
16 evaluations in terms of value for money.

17 I think she -- in Ontario, Bonnie
18 Lysyk, the Auditor General, has illuminated these
19 issues.

20 KATE McGRANN: You mentioned a lack of
21 challenge function. And I understood you to be
22 referencing in the 2009 to 2012 time period, but
23 let me know if I have misunderstood.

24 That was the time period that you were
25 discussing when you said there was a lack of

1 challenge function?

2 SHAWN MENARD: Yes, just from reading
3 those reports, and seeing -- back then the City did
4 more detailed minutes. So you can see more
5 detailed minutes at those times. Now, they're very
6 minimal, the minutes, but you can see there is very
7 little within the public reports that would show
8 that there's a challenge function here, that there
9 is somebody showing, I guess the other side to say:
10 Here are the risks with this approach. The
11 considerations should be more thoroughly weighed.
12 And, you know, the encouragement of councillors and
13 staff to do their research, and challenge a little
14 bit more when it comes to the conclusions that we
15 saw.

16 I think what we saw was some private
17 sector firms, Deloitte was very heavily involved
18 during that time, as well as other firms, Boxfish
19 and others, that were really pushing for more
20 privatization of the system at that time, and went
21 into details throughout. Have been involved
22 throughout in Lessons Learned Reports and others,
23 that were clear about the fact that they wanted
24 this to head in a certain direction.

25 And you can see the changing nature of

1 it. The maintenance originally was thought to be
2 15 years, and the maintenance contract ended up
3 being 30 years. The costs of the maintenance
4 contract gradually increased throughout those
5 reports.

6 The further privatization from a
7 design-build model, to a design-build-maintain, to
8 a design-build-finance model was clear in the
9 progression of those, in those documents.

10 I think there was, you know, influence
11 without a, I guess, ton of challenge function back,
12 and a real want and need from, I think our City
13 Staff at the time, from what it appears anyway, to
14 give this over to someone else to handle and
15 manage, because I suppose they felt that that would
16 be, you know, best in terms of the City model,
17 which is known as a "bus city".

18 I'm just -- this is me giving my
19 opinion, and making a judgment call, but I think
20 they were very happy to give over a lot of the
21 control of this, in what appeared to be an
22 environment that would allow for someone else to
23 take it on, and do it in a way that was not -- that
24 gave accountability over to them. Because I'm not
25 sure that we had the expertise in-house, or we

1 didn't think that we had the expertise in-house to
2 manage it. So that, I think, was some of the
3 prevailing wisdom at the time in moving to that
4 model as well.

5 But as I say, I didn't see any major
6 challenge function on council, with the Mayor's
7 office, or with our City Staff in those public
8 reports during those times. I saw very little.

9 KATE McGRANN: I just want to
10 understand a little bit more what you mean when you
11 use the phrase "challenge function".

12 Are you looking for a formal process,
13 or formal structures, or are you referring to
14 something else?

15 SHAWN MENARD: I'm referring to both
16 within the reports themselves, that would go
17 through a greater degree of risk calculation, as
18 well as public challenge functions of asking
19 questions during meetings that are, you know,
20 intended to take our time to get this right.

21 I saw that this was rushed. When the
22 new Mayor was elected in 2010, there was a big push
23 to get this rushed ahead, and you could see that in
24 those documents as well.

25 I think that rush to try to get this

1 launched as soon as possible, likely also
2 contributed to a lack of challenge function. You
3 had a new administration in, a very subservient one
4 that we've seen for the last decade, and
5 unfortunately I don't think that led to an
6 appropriate challenge of both elected officials and
7 a City Staff.

8 So I'm talking about the public reports
9 and the public challenging at that time mostly in
10 terms of challenge function.

11 KATE McGRANN: Okay. The concerns that
12 you've explained to us with respect to the 2009 to
13 2012 time period, do your concerns persist for the
14 years that follow up until your council term? So
15 2012 to 2018.

16 SHAWN MENARD: Yes, it was a bit
17 different during that time, because they had made
18 the selection, they had been proceeding to
19 construction. There was a lot of interim work
20 where there wasn't an availability of information
21 that this might be delayed until, I think, 2017 is
22 the first time that that really comes out.

23 And so I think the concern persists for
24 a whole bunch of other files that existed during
25 that time, but in terms of LRT, you know, it

1 continues on into 2017, 2018, right through until
2 today.

3 But that interim period, that sort of
4 2012, 2013 to 2017 period, there's not a lot in
5 there, as far as I can tell, in terms of great
6 concern around challenge function, because all
7 those decisions had been made and they were
8 proceeding to construction in the interim.

9 KATE McGRANN: Since you joined
10 council, can you give me your overall view on what
11 the nature of the reporting to council on the
12 progress of Stage 1 of LRT has been like?

13 So completion of construction, handover
14 and then operations, how has the information for
15 the council been?

16 SHAWN MENARD: I mean, it's been very
17 reactive, I think. We experience incidents, in
18 terms of the operation of the system, and then
19 there's a reaction account.

20 So there's, obviously, derailment, or
21 maintenance, severe maintenance issues, severe
22 issues with the line and infrastructure itself,
23 whether it be overhead catenary or the track
24 itself, these things come later.

25 And so we experience incidents, we get

1 major media reports on them, and then we'll get a
2 memo or a report on it.

3 There's also, I think, been a lack of
4 communication when requested documents -- when
5 request for documents have been made. So I can
6 tell you, after experiencing the launch and the
7 subsequent issues, I made a formal inquiry to
8 receive the incidents that have been occurring in
9 the prelaunch stage around the door issues, right?
10 The door jams we were seeing and the
11 non-functionality of the doors.

12 And the inquiry that came back said, we
13 can't give that information, it's proprietary. You
14 know, so we can't actually disclose what door
15 issues and how many were occurring in the
16 pre-launch period. This is an example.

17 I think that there's been difficulty
18 in, again, there's a lot of, you know, positive
19 stuff, kind of selling the project, being more
20 positive than we should be in a lot of these
21 communications, or not sending in memos at all,
22 right? I mean, the memo that didn't get sent about
23 the 12-day testing period, was obviously a big
24 event when that information came out.

25 The fact that they didn't, you know,

1 test for those 12 days consecutively --

2 -- Reporter's Note: (Experienced
3 virtual connection difficulties).

4 MR. WARDLE: I think Mr. Menard is
5 frozen.

6 KATE McGRANN: Yes, he's frozen on my
7 end as well. Maybe we just go off the record until
8 he comes back.

9 -- OFF THE RECORD DISCUSSION --

10 KATE McGRANN: You're back, we missed a
11 lot of your question.

12 SHAWN MENARD: I will try to circle
13 back.

14 The reporting to council has also been
15 difficult, in terms of not getting as much
16 information as you want or would require, I think
17 as an elected official, at the time that it's
18 required.

19 So that the 12 days of testing was a
20 good example where, you know, there is a 48-hour
21 delay -- there had been multiple reports previously
22 saying, "we're going to perform 12 days of
23 consecutive testing".

24 And then when it came down to it, even
25 though there was a major delay in that of two

1 consecutive days of not testing, we did not receive
2 that information, and it had to be a
3 reporter that provided it to us.

4 Most of this information, I think, is
5 reactive based on the issues that have been
6 occurring. And there's a lot of positivity, rather
7 than, you know, it's defending. It's been
8 defending of staff team, defending of RTG often,
9 though that's changed recently.

10 And it's also been ascribing the issues
11 to maintenance issues, when that is completely and
12 utterly false. It is not just maintenance issues,
13 there are major infrastructure issues with the
14 build-out of the line, that are also occurring, and
15 that's, you know, been confirmed to us as well.

16 The defaults that -- I won't get into
17 that yet. I'll go into that later.

18 KATE McGRANN: Just tell me what major
19 infrastructure issues you're referring to.

20 SHAWN MENARD: The main infrastructure
21 issues outside of just maintenance. So the
22 overhead catenary system, major infrastructure
23 issues. That is a permanent piece of
24 infrastructure for us, and that has experienced
25 great concern and problems to this date.

1 The infrastructure issues, I mean not
2 just the trains, right, the track itself. There
3 have been multiple replacements of, and grinding of
4 sections of track that should have been done
5 previously.

6 There have been the replacement of the
7 heating, the heaters on the line, the track
8 switches from electric to gas. And so the original
9 procurement of those, I had asked that in an open
10 session, I believe the answer was, yeah, we went
11 with the cheapest option at that time, or the
12 lowest cost option. That's what I was trying to
13 get at in terms of those heaters, those track
14 switches.

15 There have been issues with the control
16 system, the vehicle communication system.

17 There have been, of course, issues in
18 the maintenance yard and the very, I guess, small
19 radius for turn at 35 metres, I believe it is, in
20 the maintenance facility.

21 There have been a number of other
22 issues, I do have some notes here on it. There was
23 a period of time where, you know, it was during the
24 pandemic, people weren't asking a lot of questions
25 about it, and they said that rail was running well

1 at that time, LRT was running great. But even
2 during that time, we had train doors still
3 occurring -- train door events. This is a period
4 between early part of 2021, until about June, when
5 everyone said it was running great.

6 We had vehicle and traction power
7 issues. We had hydro-related power event, R1
8 service was implemented.

9 Track switches events, coupler events.
10 The track itself, major delays related to
11 inspections prior to June temporary service
12 closure. We had multiple vehicles disabled where
13 R1 service had to be implemented. Key issues,
14 braking system maintenance.

15 So this is when we were reportedly
16 saying LRT was supposed to have been running great,
17 no problems and these issues were still occurring
18 with R1 being implemented.

19 So those are some of the infrastructure
20 issues that persist.

21 KATE McGRANN: When you refer to
22 R1 service, I believe you're referring to a
23 parallel bus service that is run to provide service
24 to people when the LRT is not available; is that
25 right?

1 SHAWN MENARD: That's correct.

2 KATE McGRANN: So you've walked us
3 through a series of infrastructure issues. When
4 you identified that there were major infrastructure
5 issues, you said they had been confirmed to you;
6 what did you mean by that?

7 SHAWN MENARD: Well, so there's --
8 the defaults that we've been seeing on this system
9 are -- the default events are triple, were triple
10 that of what would normally be enough to find this
11 supplier, or maintenance provider in default.

12 And so, you know, obviously, there's
13 been many, many more than you would ever want or
14 expect to occur. So we've also had legal counsel
15 confirm. This is, you know, in briefings, this is,
16 this is an infrastructure issue.

17 MR. WARDLE: So, Councillor, I just
18 want to caution you, as we discussed privately
19 before this meeting, that the City claims privilege
20 over communications with outside counsel.

21 So you're welcome to state all of your
22 opinions with respect to the LRT, but I just ask
23 you not to get into legal advice provided by
24 counsel to the City, if you don't mind.

25 SHAWN MENARD: No, problem. Yeah, I

1 won't get into legal advice. This is not legal
2 advice.

3 But we've had confirmation that these
4 are beyond maintenance issues. And it's
5 unfortunate, because the City keeps trotting out
6 the fact that this is only maintenance issues. But
7 there are severe infrastructure issues from the
8 original build, and that's been confirmed by our
9 staff.

10 KATE McGRANN: You said the issues were
11 more than expected. And I'm not asking you to
12 share anything that has come to you by way of legal
13 advice, but to your knowledge, have City Staff or
14 anybody else held up the Stage 1 of the LRT and
15 compared it to other LRT systems and said, yeah,
16 the issues we're experiencing here are more than
17 normal, more than we are seeing in other systems
18 that have started from scratch as this one did?

19 SHAWN MENARD: It took a while, but
20 yes, they've confirmed that. They have confirmed
21 that.

22 KATE McGRANN: How did that
23 confirmation come to council? If I wanted to find
24 that information, where should I look for it?

25 SHAWN MENARD: I'm under the

1 understanding that this commission, this inquiry,
2 has received, or should have received the amount of
3 default events that have been occurring to this
4 date, correct me if I'm wrong. But that should be
5 information that was sent to the inquiry, which
6 shows, again, triple the amount of defaults that
7 would normally find somebody in default of their
8 contract. Under our project agreement, we're
9 triple the amount.

10 KATE McGRANN: Okay. And there's
11 publicly available material related to the
12 litigation between the City and RTG. Other than
13 those materials, or the evidence that form part of
14 that, are you aware of any analysis performed by
15 staff or otherwise comparing this system to other
16 systems that exist?

17 SHAWN MENARD: There was a request to
18 do that, and I'm trying to recall if it was
19 formally done or not. Every time we would request
20 that, because we've made multiple requests, there's
21 a great question about that. Because we just said,
22 "look, this is not normal. You're telling us
23 there's going to be hiccups and issues with the
24 first launch, but this can't be normal".

25 And they were refusing to do it

1 initially because it was -- they said you can't
2 just compare the systems, there are different
3 circumstances with each system.

4 And I think it came out in an inquiry,
5 but I would need to go back and check that more
6 precisely. Because I don't think that a formal
7 comparison of others has been done compared to our
8 system.

9 But it has been requested by multiple
10 councillors, so I'd be interested to see if those
11 documents do exist to this day.

12 KATE McGRANN: When you say "they were
13 refusing to do it", who are you referring to?

14 SHAWN MENARD: Well, our City Staff
15 were not happy to do that. I think they had raised
16 issues around the fact that different systems will
17 produce different results, and that ours is
18 different and you can't always compare, so...

19 KATE McGRANN: You've talked a little
20 bit about what you see as the reactive nature of
21 the information that City Council receives, and
22 you've spoken a bit about information that has been
23 requested that you haven't received.

24 Have things changed over the course of
25 your council term, in terms of the availability of

1 information? We'll start there.

2 SHAWN MENARD: Not really. I think
3 that it's been similar, a similar tactic which is
4 that there's a, you know, less is more is what I
5 think the tactic is unfortunately.

6 You know, there was a time I requested
7 that they do weekly press briefings on this when
8 major issues were occurring with the launch of the
9 train and that was, you know, that's refused. But
10 there's been, I think the same type of tactic,
11 unfortunately, communication-wise.

12 In terms of a councillor receiving
13 information, I'm often refused information or told
14 that it's not the right venue to ask for it, it's
15 consolidated at FEDCO, and then we'll get to the
16 FED, Finance and Economic Development Committee.
17 You know, the topic won't be on the agenda, so it's
18 difficult to raise it there. So there's a real
19 push to not talk about this at council. They don't
20 want you to talk about this. They want you to, you
21 know, just let it be, I guess.

22 And so the information that we receive
23 is the same, it's after events occur. I haven't
24 received reports back on any of the root cause
25 analysis, it's been very, very minimal on root

1 cause analysis of the multiple issues that have
2 occurred. And that's been a big part that I've
3 raised repeatedly is, "where are we at with the
4 root cause analysis that we said we were going to
5 get back?"

6 Because they'll often make a -- you
7 know, TSB has been good. They'll come in and give
8 more of an assessment of what's occurred. But on
9 the root cause analysis of issues, that has been
10 really difficult to obtain.

11 And, yeah, even, I mean, as you go
12 through it, we get derailments that happen in the
13 maintenance yard, or occurrences with the train. I
14 mean, obviously the report will come out after we
15 had to call in TSB, so that's there, but I don't
16 feel like we've been kept in the loop enough.

17 I think there's been three in-camera
18 sessions, and that's it on this topic. On LRT
19 specifically, I think there's been three so far.

20 And, you know, we're in major
21 litigation now, huge risks to taxpayers, and I
22 don't see them being forthcoming with that
23 information. Because they know it's a risk for
24 everyone, right? Of course it's a political risk
25 for them, it's a reputational risk. And so this

1 very much has been trying to, I think, cover up the
2 tracks that have occurred here.

3 You know, I think, again, indicating
4 that issues are mostly maintenance, that is false.
5 The efforts to avoid accountability, including
6 calling this inquiry, you know, with a 13 to 10
7 vote.

8 The legal memo we received from our
9 staff --

10 KATE McGRANN: Can I just stop you
11 there for one second.

12 SHAWN MENARD: Sure.

13 KATE McGRANN: I am only reacting to
14 the fact that you referred to a legal memo, and I'm
15 sure if I hadn't jumped in, your counsel Mr. Wardle
16 would have.

17 SHAWN MENARD: I understand.

18 KATE McGRANN: Just to caution you,
19 again, that we're not looking for any legal advice
20 provided to counsel or sought by counsel either.

21 Please go ahead.

22 SHAWN MENARD: Understood. It was a
23 public legal memo on whether or not to call the
24 inquiry, right? And that public legal memo very
25 much was weighted towards not calling an inquiry.

1 Including the questions that we would ask of staff
2 during those public sessions as well, so I think
3 the -- it's been the same throughout the period of
4 time, it has not changed much in terms of the
5 approach. And we've had our City Manager say that
6 the issues that arose on those trains after the
7 launch, you could not foretell all the issues in
8 advance of what would happen, and I think that's a
9 false statement.

10 I think the testing phase was clear,
11 this train was -- these trains were in not great
12 shape, the track was not in great shape.

13 The Manconi revelations that came out
14 later of his e-mails, just a few weeks before the
15 launch of the trains were told that. And so I
16 think we're still being told, unfortunately, issues
17 like, you know, describing to us things that are
18 not accurate. And, you know, that's -- that's
19 unfortunate.

20 You know, again, we hear the City
21 Manager that said, you know, the maintenance
22 capabilities of Alstom and RTM, and their
23 subcontractors, to be able to maintain those trains
24 and deal with any actions or any problems that
25 happen with those trains, if there are any

1 failures, he said, those are the real issues.

2 And again, there's much greater issues
3 than just that. So I think it's not changed much
4 throughout the course of the term.

5 KATE McGRANN: Couple of follow up
6 questions on the information you provided.

7 You said that it was -- I'm
8 paraphrasing. So first of all, you can let me know
9 if I get this wrong. But I think your evidence is
10 that it was clear from the testing phase, the train
11 and the tracks were not in great shape. Is that
12 what you're saying?

13 SHAWN MENARD: Absolutely. Absolutely.

14 KATE McGRANN: And you referenced some
15 e-mails from Mr. Manconi that I think were sort
16 of -- people became aware of through the press?

17 SHAWN MENARD: Uhm-hmm. That's right.

18 KATE McGRANN: And any other basis for
19 your view that it was clear by the testing phase
20 that the train and tracks were not in great shape?
21 Other than Mr. Manconi's e-mails that you told us
22 about.

23 SHAWN MENARD: Yes. There was
24 extensive reporting by Ms. Chianello, Joanne
25 Chianello, about the issues they were experiencing

1 during testing prior to the Manconi e-mails as well
2 around the winter testing. And the concerns that
3 were -- that they had at that time.

4 Now again, none of that came to us
5 through proper channels, it was all through the
6 media that we found out that there were major
7 issues during the lead up.

8 KATE McGRANN: Okay. And other than
9 the Manconi e-mails and Ms. Chianello's reporting
10 on the winter testing, and concerns that were
11 expressed for the winter testing; anything else
12 that forms the basis for your view that the trains
13 and tracks were not in great shape before and at
14 the time of launch?

15 SHAWN MENARD: I'm trying to think back
16 what other information I might have received...

17 No, I think just in our discussions
18 later on after the launch, there was a lot of
19 discussion about testing in public forum. Despite
20 them not sending the information I was requesting
21 about the doors, there was publicly discussed
22 situations during council meetings where this was
23 raised, in committee meetings where this was
24 raised. And I think my opinion is formed from that
25 as well.

1 As I recall, there were issues that
2 were raised about the testing phase that it did not
3 seem like things had been perfect during that time,
4 and that there were issues during that testing
5 phase through open session.

6 So I think those three different areas
7 probably formed my opinion of those phases prior to
8 launch.

9 KATE McGRANN: To your knowledge, were
10 there plans in place, or put together on the City
11 side, for what to do if the 12 days of testing were
12 not successful?

13 SHAWN MENARD: My understanding is they
14 were not to -- they would not have achieved revenue
15 service availability at that time, they were to
16 continue testing. It would restart is my
17 understanding from the multiple presentations, that
18 they would restart that testing until they got to
19 those 12 consecutive days.

20 KATE McGRANN: What is your
21 understanding of the decision-making process that
22 led to launching public service on September 14th
23 of 2019?

24 SHAWN MENARD: Well, I mean, I guess
25 the process that they had to go through appears

1 rigorous. You know, it appears like it's a process
2 that, you know, you would never launch the system
3 if it wasn't ready, because you've had independent
4 testing certifiers sign off on it. You've had the
5 City Manager do his due diligence to sign off.
6 You've had those 12 days of testing to sign off on
7 it. And, you know, you've got RTG saying the
8 system is ready to accept, with the City making
9 that final decision with an independent arbiter.

10 So that's my understanding of the
11 process of how it's supposed to work. But I think
12 there is likely great pressure to launch during
13 that time. There had been great pressure to launch
14 previously.

15 You know, there was heavy pressure at
16 the time. Our drivers were being reduced as --
17 like bus drivers were being reduced. Routes were
18 being changed and baked in for the anticipated
19 launch.

20 There had been occurring on budget and
21 on time -- on time, on budget mantra for a long
22 time prior to that. And that as this dragged on,
23 there was, I think, much, much greater pressure to
24 get the system launched. When you read media
25 reports that were occurring, you're talking to

1 people at that time, that was the talk of the town.
2 It had been before the pandemic for a long, long
3 time, was the LRT.

4 So when you have everybody talking
5 about a particular municipal issue, that creates
6 pressure to get the system up and going.

7 You know, we hadn't actually had LRT --
8 the LRT Stage 2 decision was made prior to the
9 launch, as well. And so as I understand it, that
10 got factored in -- I'm trying to recall exactly the
11 timing of that. I believe that was in March of
12 2019 that we approved the Stage 2, and then the
13 launch occurred in September.

14 KATE McGRANN: So when you talk about
15 there being pressure to launch, who is the pressure
16 coming from? Is it coming from the public?

17 SHAWN MENARD: Well, no, I think there
18 was -- there's huge pressure internally. You know,
19 I think that there was likely large pressure
20 internally because of the pressure from the public.
21 So, you know, I think staff were under the gun for
22 trying to get something launched sooner rather than
23 later.

24 I think the City was putting pressure
25 on RTG to get the system up and running and ready.

1 And a lot of that is as a result of the delays that
2 had occurred, and the public pressure that was
3 being put on them.

4 I think the Mayor's office likely
5 pushed this. I don't have evidence of that, but
6 I'm sure that there were big -- you know, a large
7 impetus to get this thing up off the ground. So it
8 certainly seemed that way when the handover with
9 the key happened, and the elation that occurred on
10 that day.

11 I remember riding the train on the
12 first day, you know, it was very positive, and I
13 think there was a big push to have that occur,
14 after three terms of council -- two terms of
15 council and into the third term of council that had
16 really been pushing this issue. You know, from a
17 politician's perspective, you want that thing
18 launched, right? You want it to start running, and
19 you want it to show that it's, you know, a new
20 service for the City of Ottawa that's going to
21 change the City forever in a positive way, right?
22 So there's all of that as well.

23 But it appears that -- I mean, I've
24 said this publicly many times -- it appears that
25 obviously this was launched too soon, given the

1 issues that were occurring afterwards. I think the
2 pressure to launch contributed to that.

3 And, you know, I think that we've all --
4 the people's safety has been put at risk as a
5 result. Our financial objectives, in terms of the
6 economy in Ottawa, has been put at risk as a result
7 in terms of, you know, loss of confidence in the
8 system.

9 And the decision to do that took, I
10 think, you know -- it was a large risk that was not
11 necessarily fully calculated, as I say before, or
12 mitigated in a way that was going to make sure that
13 the system was functional, efficient, and did what
14 we said it was going to do.

15 KATE McGRANN: You talk about the
16 pressure to launch contributing potentially to the
17 decision to launch at the time that the system was
18 open for public service.

19 Sitting where you're sitting now, is
20 there anything that you think could have been
21 changed about the approach taken to the system that
22 might have lessened the pressure and permitted for
23 a different approach to public service launch?

24 SHAWN MENARD: I think had we known
25 about that, those two days of shutdown during the

1 testing phase, that would have really -- you know,
2 certainly would have raised more red flags at that
3 time.

4 I think that had the City been more
5 forthcoming about the problems that were occurring
6 in the testing phase prior to that, prior to the
7 12 consecutive days, the other testing that they
8 were doing, we likely would have had, you know,
9 more concern about it as a council.

10 That being said, this council, you
11 know, is again, very, very subservient to the Mayor
12 and to City Staff. They push through decisions all
13 the time without taking proper precaution, in my
14 view, and the time to get things right.

15 You saw that with the Stage 2
16 procurement, with just nine days between a report
17 coming out and approving huge changes to what had
18 previously been communicated to City Council.

19 And so there is a problem here, and
20 it's a problem of extreme deference of delegated
21 authority and of subservience to, you know, I think
22 a lot of the powers that be in Ottawa, the Mayor
23 and others, who have been very controlling of these
24 aspects without a full challenge function.

25 So even though there may have been the

1 memo that would have been released saying 48 hours,
2 some people would have jumped on that and
3 challenged it, but I don't know that it would have
4 changed the way council functions, which has
5 functioned this entire term, which is extreme
6 subservience and a lack of risk mitigation and
7 management.

8 KATE McGRANN: So before we leave the
9 topic of the pressure to launch the system and how
10 it may have contributed to the decision to proceed
11 with handover and things like that. When I asked
12 you about what maybe could have been done
13 differently to change the situation, you referenced
14 receiving information about the two days of
15 shutdown during the 12 days of testing. And you
16 mentioned if there had been more information
17 available about other testing, are you referring to
18 the winter testing when you say "the other
19 testing"?

20 SHAWN MENARD: Yes, I am. I mean,
21 obviously, there is reports that came out about
22 that winter testing that, you know, that there is
23 concerns there that came out publicly at that time.

24 But the response to -- by staff during
25 those times was to minimize it. And this is what

1 I'm saying, is that we constantly get reports back
2 that are minimized without appropriate amount of
3 risk being apportioned or giving us alternative
4 scenarios.

5 Those things aren't usually done, it's
6 just "rah-rah, let's move along", right? And
7 that's unfortunate in the way, you know, the public
8 administration has worked in this City in the last
9 decade.

10 So I think had we had staff tell us the
11 truth about what was happening with these trains in
12 testing, and provide more information to us at that
13 time with a, again, a challenge function, I don't
14 think we would have launched. I really think it
15 would have been held off.

16 But we don't -- we don't have a lot of
17 people that are wanting to speak truth to power on
18 these things, unfortunately. So you know it is --
19 it's swept under, and it's mitigated -- or it's,
20 you know, really, I think the narrative around it
21 is in such a way that minimizes the issues that
22 we're experiencing. And we saw that with the
23 second derailment as well.

24 We minimized the first derailment, and
25 then the second derailment happened and finally

1 people got it. So there's a pattern.

2 KATE McGRANN: What is it that you
3 think that people got after the second derailment?

4 SHAWN MENARD: Well, that there are
5 huge safety issues here and that all is not well.
6 That there is major concern to the biggest project
7 in the City's history, almost \$7 billion to a
8 system that feels unsafe, has had major
9 reputational risk, and not just risk, it's
10 occurred, it's come to pass. And that has affected
11 our finances forever, you know, without appropriate
12 challenge function.

13 People got it at that time that, "look
14 it, something is really wrong here". And just
15 sweeping it under the rug, or being positive about
16 it after this isn't going to work anymore. You
17 really saw, I think, tone changes in the City after
18 those occurred.

19 The tone started to apportion blame to
20 RTG at that time, much more than it did previously.
21 They were starting to apportion it to RTG before
22 that, but when that happened, the blame was on RTM,
23 RTG. And, you know, that was a bit of a change, of
24 course. And the public, I think, although they
25 were upset before, a lot of them were concerned

1 before, that really solidified their concern.

2 KATE McGRANN: You referenced huge
3 safety issues with respect to the second
4 derailment.

5 What safety issues are you referring to?

6 SHAWN MENARD: Well, from what I
7 understand, that train derailed prior to coming
8 into the station. That was actually a point that
9 staff didn't tell us. Mostly Transpo senior
10 management knew on Sunday, the day of the
11 derailment, that the train was initially derailed
12 coming into Tremblay Station.

13 It seems that was misdirected during
14 the presentation to Transit Commission to keep us
15 from knowing the severity of it. And because they
16 had it on camera, they knew. But that could have
17 been catastrophic. It went over a bridge after, I
18 mean, it was in my ward that this occurred.

19 And so, you know, just -- I'm not sure
20 what else to say besides the fact that these -- the
21 safety issues are proof from the incidents that
22 have been occurring, the fact that we had two
23 derailments on the line, and three derailments in
24 the maintenance facility, in addition to those two
25 derailments on the line.

1 The fact that TSB had been called in
2 multiple times and would actually give us the truth
3 about what occurred there, and they would not
4 sugarcoat it, it was just technical details,
5 "here's what happened".

6 Those were the things that, you know,
7 showed the concern around the safety of the system.

8 KATE McGRANN: To your knowledge, has
9 anybody inquired about why council is receiving
10 more information from TSB than it was receiving
11 from City Staff at the time that you're referring
12 to? So a briefing, and then followed quickly by a
13 TSB communication.

14 Has anybody asked about why different
15 information is coming from both sources?

16 SHAWN MENARD: Yes, I've asked. And I
17 requested the reason -- one of the things I
18 requested was the full communication between City
19 Staff and TSB, because of the exact thing you're
20 raising right now.

21 They didn't reveal that. They didn't
22 want to give that to me. I wanted to see the
23 e-mails they were sharing, and I requested that and
24 that was not forthcoming.

25 I think there was some proprietary

1 stuff there, I don't know what TSB and the City --
2 I'm not sure. I have it in an inquiry, there's
3 been so much. But we did ask the -- I had raised
4 that, yes.

5 And we also, multiple councillors had
6 raised why we were finding out more from the media
7 than our City Staff, both in in-camera and out of
8 camera. So there's a concern there, in terms of
9 the issues that were being identified with the
10 system coming to us in a public way, unprepared for
11 it, and not being disclosed by our senior
12 leadership team.

13 KATE McGRANN: So what response did you
14 receive to the question: Why are we receiving more
15 information from TSB than we are from City Staff?

16 U/T SHAWN MENARD: I'll have to go back. I
17 don't recall fully. I think I have it in an
18 inquiry, I have it in an e-mail somewhere, maybe I
19 can send that to you as part of our documents.

20 KATE McGRANN: Yes, if you can take a
21 look for that exchange and provide it to us that
22 would be great.

23 SHAWN MENARD: Sure.

24 KATE McGRANN: Sitting here today, do
25 you have any recollection of what explanation you

1 were given?

2 SHAWN MENARD: I mean, I think that
3 they didn't want to produce those exchanges of, you
4 know, texts between staff members, or e-mails
5 between staff members.

6 But, you know, the response to these
7 questions about why we were receiving information
8 from the public, there was another Councillor,
9 Councillor Leiper, who actually wrote an e-mail
10 saying, "look, why are we receiving this from
11 Joanne Chianello, when it was very clear we should
12 be receiving it from you?" The response we always
13 get is excuses.

14 And I remember an e-mail response from
15 Mr. Manconi at that time, and it was full of
16 excuses about why they didn't tell us about one
17 particular issue that had been occurring, that
18 Councillor Leiper had asked about.

19 Again, I can dig up that e-mail as
20 well. I'm sorry that I don't have the stuff at my
21 fingertips to describe it. But mostly it is,
22 again, a complete defence of everything that has
23 occurred.

24 I've asked for people to apologize.
25 To, you know, provide some level of admission of

1 failure in some of these cases, and that is never
2 forthcoming.

3 You know, accountability, we've had our
4 City Manager say, you know, "look, you don't trust
5 your City Manager or", you know, "fire me on the
6 spot." Or, you know, "bring a motion to have the
7 City Manager removed." You know, like those are
8 the kind of responses we've been getting.

9 U/T KATE McGRANN: Just to sort of finalize
10 a couple of things that came out of the information
11 you just provided.

12 We will ask you to take a look for and
13 provide us with the e-mail exchange regarding
14 questions asked about why council is hearing about
15 things from the media before hearing about things
16 from City Staff.

17 I don't think I got an answer from
18 you -- and the answer may be that you don't
19 remember, if that's the case, just let me know.

20 But I don't think I got an answer from
21 you in terms of what you remember being told about
22 why you're hearing information from the TSB that
23 you're not hearing from City Staff.

24 Do you remember what explanation you
25 were given there?

1 SHAWN MENARD: Yeah, it was through an
2 e-mail exchange, and I had put in a formal inquiry
3 about it. And this was about the e-mails, like any
4 information that TSB had sent the City versus back.
5 And I think what the City had said at the time is
6 that there's, you know, perhaps that TSB didn't
7 want to release it, or they didn't want to release
8 it for some -- and I can't recall the exact reason
9 why, but it wasn't released.

10 U/T So I will dig that up as well, so I'm
11 making a note right now.

12 KATE McGRANN: And we will send a
13 follow up e-mail to your counsel with the -- your
14 sort of takeaway to do this as a result of this
15 interview.

16 SHAWN MENARD: All right.

17 KATE McGRANN: Taking a step back for a
18 second. What is it that you feel could be done
19 better if you were receiving the kinds of
20 information that you received through the media,
21 from City Staff instead?

22 SHAWN MENARD: Well, I think that there
23 would be more of a proactive strategy amongst
24 council and the Mayor to, you know, align on some
25 objectives around Stage 2, and Stage 3.

1 You know, I think that had we received
2 the information prior to launch and, you know,
3 truth be told about the issues occurring prior to
4 launch, we may have had a lot more pushback to
5 launch if that had come from City Staff and not
6 just the media. Or they can confirm those things
7 and say, "yeah, there's a real concern here". But
8 we don't get that. We get them minimizing the
9 issues.

10 I think that there may have been a
11 different approach to, you know, Stage 2 and how
12 that unfolded had we received the information prior
13 to that as well. There may have been more
14 consideration given to when we went to tender on
15 that, and how we did -- like how we accepted the
16 people that were going to be building the system
17 and procuring the system had there been more
18 knowledge prior to that as well.

19 Obviously you know this is different
20 than Stage 1, but the technical score wasn't met on
21 Stage 2, we were not told that, and that is a
22 pattern of covering up what is occurring here in
23 order to, I guess, preserve reputational risk is
24 what I would imagine.

25 So there likely would have been more of

1 a delay to, you know, consider that decision at
2 least amongst other councillors, had those sorts of
3 things come to light.

4 I think it's important, even though
5 we're talking about Stage 1, that these Stage 2
6 issues are relevant to Stage 1. They speak to the
7 operational, you know, operationalizing the LRT and
8 transit decision in this City, and procurement
9 decisions in the City, and are related to the Stage 1
10 procurement and launch.

11 And so, you know, that information, had
12 we had it, I think would have changed the potential
13 outcome of, you know, that procurement on Stage 2.

14 So, yeah, I guess, you know, there's a
15 need I think to feel trust with your staff.
16 There's a need to try to establish trust with your
17 council and your staff, and that doesn't help when
18 you're receiving information from the media or
19 other sources that contradict what your belief is
20 at that time. So that is one of the big things,
21 too, is trust.

22 As well as, I guess, you know, the
23 public trust in government as well, how they
24 perceive you to want to govern and care about their
25 interests, is often -- you know, and the

1 information you reveal, and how that is found to be
2 accurate or not.

3 In this case, the proof has been in the
4 operation of the transit system. There is a lot of
5 nice things written, and positive things written in
6 those reports, but the result, the actual proof of
7 what's occurred is there in the failure rates that
8 we're seeing from both infrastructure and
9 maintenance issues.

10 KATE McGRANN: To your knowledge, what
11 kind of review or analysis has the City conducted,
12 if any, to try to pull together lessons learned
13 from the approach to Stage 1, what's been done in
14 that fashion?

15 SHAWN MENARD: Yeah, there was a
16 Lessons Learned Report for Stage 1. I think it was
17 written, I believe it -- I have to go back and
18 check this, who it was written by. It might have
19 been written by one of the same firms that
20 recommended us going in a P3 direction in the
21 original place, as well as, you know, a small
22 boutique firm that, you know, had recommended that.

23 So I believe that Lessons Learned
24 Report was written by people that were already
25 heavily involved in Ottawa's LRT to begin with.

1 But there certainly was a Lessons Learned Report
2 written.

3 KATE McGRANN: Have you reviewed that
4 report?

5 SHAWN MENARD: Yes.

6 KATE McGRANN: And in your view, does
7 that report accomplish what you would hope a review
8 and analysis of the Stage 1 experience would
9 accomplish to allow the City to learn from
10 experiences, and do things potentially differently
11 the next time around?

12 SHAWN MENARD: No, no. It was fairly
13 glowing. Again, the recommendations made in there
14 were fairly minimal, and mostly it was a positive
15 report.

16 KATE McGRANN: Other than that report,
17 which I'll ask you to take a look at and let us
18 know which report you're referring to.

19 MR. WARDLE: I think Councillor Menard
20 is referring to a 2015 report which has been
21 produced, authored by Boxfish and Deloitte.

22 SHAWN MENARD: Yes.

23 KATE McGRANN: Okay. And that 2015
24 report is released before construction and
25 manufacturing are complete, before the trial

1 running period has been run, before handover and
2 then open to public service.

3 Since that report, to your knowledge,
4 has the City done any sort of analysis or lessons
5 learned kind of exercise on Stage 1?

6 SHAWN MENARD: On Stage 1. We passed a
7 motion on Stage 2 in this term as council for
8 another Lessons Learned Report.

9 But in terms of Stage 1, no, I don't --
10 I think there's been, you know, safety --
11 independent safety experts brought in to review the
12 system. But in terms of actual reports, and sort
13 of Lessons Learned Reports, on Stage 2 we had one
14 come [audio cuts out] --

15 -- Reporter's Note: (Whereupon the
16 last two lines of the answer were read back as
17 recorded above).

18 SHAWN MENARD: We had one come back on
19 Stage 2. But on Stage 1, I don't believe we had
20 more, I don't know, since I've been around I don't
21 think so.

22 KATE McGRANN: Okay. And leaving aside
23 the concept of a Lessons Learned Report, do you
24 know if there's been any sort of analysis on how
25 Stage 1 unfolded, and what might be done

1 differently going forward by the City?

2 SHAWN MENARD: There was a request by
3 Councillor Meehan to apply lessons learned, you
4 know, and that was after all the issues we were
5 seeing on the track and with the trains after
6 launch. And there is a -- so City Staff did
7 produce like a -- it was a document that compared
8 the two outcomes, and it was supposed to be applied
9 to future, you know, Stage 2, in terms of the
10 vehicle procurement, or I guess how they're built.

11 And then lessons that could be applied
12 to Stage 3 as well. I think that's the only other
13 comparison or application I've seen.

14 KATE McGRANN: And when you say "City
15 Staff produced a document that compared two
16 outcomes", what two outcomes are you referring to?

17 SHAWN MENARD: Yeah, it was an inquiry
18 from Carol Anne Meehan, and so it should be public
19 record.

20 And what I'm referring to is what
21 occurred with Stage 1, and what would change about
22 future stages, as I recall.

23 So I know one thing that's changed is
24 the, you know, payment for being late. For
25 example, those payments would change for having

1 late revenue service availability in a future
2 stage.

3 KATE McGRANN: And do you know how they
4 changed?

5 SHAWN MENARD: Sorry. On the payments?

6 KATE McGRANN: Yes.

7 SHAWN MENARD: There would be greater
8 payments, as I understand it, larger payments for
9 delays on Stage 2 to further incent on-time
10 completion, or close to on-time completion.

11 And then penalties within the actual
12 project agreements for deficiency of service, as I
13 understand. Again, that inquiry would be helpful,
14 I think for this public inquiry.

15 KATE McGRANN: Just before we move on,
16 Ms. McLellan, do you have any questions arising out
17 of what we've discussed so far?

18 LIZ McLELLAN: No.

19 KATE McGRANN: Earlier in your evidence
20 you made reference to the vehicles that are being
21 used on Stage 1 as being, I think, new vehicles; is
22 that fair?

23 SHAWN MENARD: Yes. Yeah.

24 KATE McGRANN: I realize that the
25 procurement phase of Stage 1 of the LRT pre-dated

1 your time on council, but do you have any knowledge
2 or understanding of what the City went looking for
3 as far as the LRT vehicles when it did go to
4 procurement for this stage?

5 SHAWN MENARD: In terms of what they
6 wanted the vehicles to -- how they wanted them
7 operate or features of the vehicles?

8 KATE McGRANN: More specifically, with
9 reference to whether they wanted to use vehicles
10 that had been proven in service elsewhere, or
11 whether they wanted to move forward to a new and
12 innovative vehicle, things like that.

13 SHAWN MENARD: Right. So for Stage 1,
14 they wanted to -- I mean, their purchase of
15 vehicles were not off the shelf, it was brand new
16 vehicles with, you know, different design specs,
17 but from a manufacturer that had produced many
18 vehicles in the past. However, it was brand new
19 for Ottawa, and they went in that direction.

20 I did ask about the cost of those once
21 upon a time, comparing to say -- I asked about
22 Calgary's system, and there was an inquiry on that,
23 that also came back. This was related to Stage 2,
24 but still relevant for Stage 1.

25 And, yeah, so my understanding is they

1 went with brand new vehicles, new designs as well.
2 Not just brand new vehicles, but actually a full
3 new design. They said it would be specific for
4 Ottawa, they said that this would handle with
5 winter very well.

6 There is documents previously that talk
7 about the features that the trains will bring
8 specific to Ottawa's climate, they talked a lot
9 about that. In those early documents from 2009 to
10 '12, some of those public reports speak to that.

11 KATE McGRANN: From your perspective,
12 as City Council starting in 2018, can you tell me
13 what you understood the relationship between the
14 City and RTG to be like when you started?

15 SHAWN MENARD: Yeah. I think the
16 relationship seemed good, seemed fair. Seemed like
17 they were starting to feel a little bit of
18 pressure, because of the delay that had been
19 occurring, it was supposed to have launched before
20 the 2018 election initially. Then it had been
21 changed to November of 2018, so just after the 2018
22 election. And then of course it didn't launch
23 until the year after.

24 But even throughout that, the City was
25 defending RTG during much of that time, in public

1 statements, you know, trying to work with the
2 partnership. And, you know, yeah, just, I think it
3 was more positive than it's been lately.

4 KATE McGRANN: And what do you think
5 changed about the relationship between when you
6 started and lately?

7 SHAWN MENARD: Yeah, just the major
8 defaults that have occurred, the derailments that
9 have occurred, and then of course the Court filings
10 that have occurred.

11 I think the, you know, the City was
12 feeling a lot of pressure from the public at that
13 time as well, because of the issues that were
14 occurring. And they, again, put that onto RTG, and
15 we still do that to this date, with regard to
16 maintenance.

17 KATE McGRANN: When you say "put that
18 onto RTG", what do you mean?

19 SHAWN MENARD: Blame them, right, for
20 the issues that are occurring.

21 KATE McGRANN: Do you have a view on
22 whether that blame is properly placed?

23 SHAWN MENARD: Well, the blame should
24 be apportioned better than it is right now. It's
25 not fully fair, in my view, just to blame RTG and

1 RTM for the service that's occurring.

2 The City chose the procurement model;
3 the City chose the oversight; the City chose to
4 launch; and, the City chose to have the maintenance
5 payments that they're paying to them, as they are.
6 The project agreement is what it is.

7 And so those are all decisions of our
8 administration. You know, and we take ownership of
9 the fact that we went down the road of a
10 public-private partnership, and we're sold on this
11 thing and all that comes with that, in terms of
12 lack of control. Lack of, you know, an ability to
13 address issues in a more substantive way in terms
14 of, you know, targeting what needs to be fixed on
15 those trains. Reliance on subcontractors to come
16 in. I know there's been a lot of blame towards
17 Alstom as well, the City doesn't control that,
18 that's controlled through RTM.

19 And so, you know, I think after the
20 first derailment occurred, after the wheel flats
21 started to occur, there likely should have been a
22 much more introspection by the City. And, you
23 know, major concern in terms of bringing people in
24 to find out what's going on. That only occurred
25 after the second derailment.

1 And the City Manager was going to bring
2 in the original folks who had been there from day
3 one, I think it was STV. And I had pushed back
4 against that, internally through e-mails, just
5 saying, "why are we bringing the same people in?
6 Again, that have the same results going over and
7 over again, and so bring in another safety body".

8 And he changed his decision shortly
9 after, to bring in TRA instead. So that was good.
10 But I think the, you know, that sort of the
11 bringing in of those safety officers given the
12 other issues that were occurring on the line,
13 probably should have happened a lot earlier.

14 The oversight of this system is still
15 the City's. And we can, you know, speak strongly
16 in the media all we want, but unless there is, you
17 know, oversight that's true and real, and, you
18 know, is giving us information about what the true
19 problems are, it's not sufficient.

20 I'm sure they have that information,
21 they do not reveal it to us, though, on a regular
22 basis. We do not see the internal workings of,
23 unfortunately, of how the system is performing
24 internally, and the problems -- I don't feel like I
25 ever get a clear picture of the problems that are

1 occurring internally, it's not transparent. And
2 I'm somebody that wants to dig into it.

3 There is a report the other day that
4 came back on the independent safety officer for the
5 Transit Commission, and they talked about some of
6 the dynamic within that they were seeing, but
7 there's nothing -- there's never a -- I'm not
8 seeing full analysis, and truth be told to us about
9 what the real problems are, and what the formal
10 outcome and strategy should be to finally fix this.
11 It is just a, "steady as she goes" and, "monitor
12 it", and that's it.

13 I'm not getting enough of actually
14 fixing and resolving this, and that's where
15 accountability is being lost. And where the City
16 needs to have more, you know, I think blame and
17 oversight of -- blame and accountability, I
18 suppose, with regard to what's occurred.

19 KATE McGRANN: The Independent Safety
20 Officer Report that came out recently, do you know,
21 is that report the Sam Berrada report from --

22 SHAWN MENARD: Yes.

23 KATE McGRANN: With respect to the
24 City's initial decision to retain STV to do some
25 review work, and then the subsequent decision to

1 have TRA do that work, why was it important to you
2 that STV not be brought on for that retainer?

3 SHAWN MENARD: It would be -- to me, it
4 would be the same thing as bringing Boxfish back
5 in, or having Deloitte come back in at this stage.

6 They had been there from the very
7 get-go, and had a lot to own up to in how the
8 system performs. And you want them to be as
9 independent as possible.

10 KATE McGRANN: And I take it that's
11 because you want the review to touch on all aspects
12 of the project, and you're concerned that if you
13 bring on someone who was previously involved, they
14 would not adequately or objectively review their
15 own involvement?

16 SHAWN MENARD: That's correct. Just
17 having fresh eyes is helpful as well in addition to
18 that view that you've just apportioned to me, which
19 I agree with. It is having fresh eyes, too, that
20 can come in and really review it, and they've been
21 there for longer than we expected them to be
22 because of the ongoing issues.

23 KATE McGRANN: Your suggestion that the
24 retainer of something like TRA, maybe should have
25 happened earlier.

1 What makes you wonder about whether
2 that should have happened here?

3 SHAWN MENARD: I think just from the
4 very get-go of the launch, and what we saw there in
5 the weeks that followed in that October that
6 occurred, you know, and the persistence of issues
7 during that time. There was persistent defaults.
8 We probably should have someone right away. I
9 mean, we had people on the track, kind of the red
10 vest folks there helping to get people to their
11 destination during those times, but it was
12 obviously very different than that. And, you know,
13 we likely could have used that early, early on, but
14 that wasn't done.

15 KATE McGRANN: Do you think the City
16 had the expertise it needed to accept handover of
17 the system and begin operating the system?

18 SHAWN MENARD: It's a hard question to
19 say, to answer "yes" or "no". The proof that we've
20 seen is obviously there was major errors made to
21 accept the system.

22 So my hindsight view is that,
23 obviously, the concerns that we've seen have, you
24 know, affected my judgment of those folks. But at
25 the time, I wouldn't have had, you know, I was not

1 concerned about it.

2 But now it appears that, obviously,
3 that was a major mistake, and that shouldn't have
4 occurred. So I don't know, take that as you will,
5 I guess.

6 KATE McGRANN: Are you aware of any
7 discussion or consideration of opening the system
8 with an offering of less than the full public
9 service to allow for a sort of -- I've seen a
10 reference to the term "soft start". But what I
11 want to ask you about is, are you aware of any
12 consideration of opening up the service of less
13 than full public service, then ramping up to full
14 public service over time?

15 SHAWN MENARD: Yes. So in documents
16 that I've read, there was clear reference to a
17 suggestion by RTG at the time to the City to have a
18 soft opening, given that they weren't going to make
19 their initial launch date.

20 The City, as I understand it, said "no"
21 to that, and proceeded within the project agreement
22 for when the launch did occur.

23 And it appears to me -- but I don't
24 have any documentation -- but it appears to me that
25 the launch that occurred, was a launch -- actually,

1 there is documentation, sorry. The launch occurred
2 before stations were fully ready, for example.
3 There was still work to be done on multiple
4 stations, in multiple areas, at the time of that
5 launch, as I understand it. There was still other
6 infrastructure work yet to be completed when the
7 launch occurred.

8 KATE McGRANN: When you say that you've
9 looked at docs that show a request from RTG and
10 that a response from the City "no"; what documents
11 are you referring to?

12 SHAWN MENARD: It's the ones shared by
13 Mr. Wardle's office prior to --

14 MR. WARDLE: So those are documents in
15 early September 2018 when it became clear that RTG
16 was not going to make the November handover. And
17 those documents have all been produced.

18 U/T I can identify them for you, Kate.

19 KATE McGRANN: Yes, please.

20 So the timing of the discussion of a
21 potential start with less than full public service,
22 those documents are from 2018 with reference to the
23 first date originally contemplated in the project
24 agreement?

25 SHAWN MENARD: I believe it's in

1 reference to, yes, the earlier dates. And there is
2 a suggestion by RTG at that time to potentially
3 launch, soft launch with less capacity than you'd
4 normally have. I believe it's in reference to
5 earlier launch date.

6 I don't know if it was like the very
7 first date where they were anticipating, I think it
8 was the May 2018, I don't know if it was for that,
9 in particular, or a future date, but certainly the
10 suggestion was being made.

11 KATE McGRANN: Okay. With respect to
12 the public -- the open to public service in
13 September 14th of 2019, are you aware of any
14 discussions around that opening being less than a
15 full service opening and ramping slowly up to full
16 public service over time?

17 SHAWN MENARD: So I'm trying to recall
18 the number of trains that were launched at that
19 time, but I don't think we had 15 right from the
20 get-go. So that would be a reduction in what we're
21 supposed to have in terms of what the contract says
22 we're supposed to have, and I don't know if we've
23 ever had 15 running. We're supposed to have 15
24 available, I think is the term.

25 So certainly I think that was the case,

1 that there was also infrastructure issues related
2 to some of the stations and some other works that I
3 understand were still being completed at the time
4 that were not fully done.

5 But I don't think those were expected
6 to relate to the actual functioning of the system
7 itself in terms of, you know, train running down
8 the track to stations. It was, I believe, the
9 infrastructure outside of that core operational
10 value of the train.

11 KATE McGRANN: Okay. Other than what
12 you remember being a start with 13 trains, and the
13 possibility that there was still some work to be
14 done on some stations, are you aware of any
15 discussions between the City RTG, or within the
16 City itself, about a slower, or less full start to
17 public service for the system in September of 2019?

18 SHAWN MENARD: No, I'm not.

19 KATE McGRANN: Do you think that --

20 SHAWN MENARD: To the best of my
21 recollection.

22 KATE McGRANN: Pardon? Yeah, to your
23 recollection.

24 SHAWN MENARD: To the best of my
25 recollection, I'm not privy to that.

1 KATE McGRANN: Okay. Do you think
2 there would have been a willingness on the part of
3 council to entertain a slower ramp up to full
4 public service in September of 2019?

5 SHAWN MENARD: Yes. I think if there
6 had been the discussion, and decision points that
7 were brought to council to potentially talk about a
8 softer launch, because the system wasn't quite
9 ready, I think there would have been openness to
10 discuss that. And to potentially implement it, you
11 know, I don't know how those conversations go, but
12 I guess the answer would be, yes, that there would
13 be openness to that.

14 But that wasn't discussed. And the
15 original suggestion that was made by RTG, from the
16 documents I've seen, was rejected by staff. So
17 that might give us some insight into what the
18 thinking was during that time around the project
19 agreement.

20 KATE McGRANN: I understand that in or
21 around November 2019, you and others called for
22 several actions related to the operation of the
23 system, including that the City accept immediate
24 assistance of external and independent help to
25 solve ongoing mechanical and operational issues.

1 Do you know what I'm talking about?

2 SHAWN MENARD: Yes, I believe so. We
3 had a press conference, but I think that was 2020,
4 with seven councillors, and that was requesting the
5 ombudsman get involved.

6 Earlier than that, I remember calling
7 for independent overseers of the system. I don't
8 know the exact date.

9 KATE McGRANN: Why did you think an
10 independent overseer of the system was required?

11 SHAWN MENARD: It was really because of
12 the media reports that were coming out that were
13 contradicting what we were hearing or not -- or,
14 you know, contradicting what we received by staff.
15 And the operation of this system was so poor, and
16 the public concern was so great, that it seemed for
17 accountability purposes, that that would be
18 necessary.

19 KATE McGRANN: You've raised concerns
20 in the past about portions of the project agreement
21 being redacted. Was there specific information
22 that you were looking for in the agreement that you
23 haven't been able to access?

24 SHAWN MENARD: There were parts about
25 the warranty information that I was in particular

1 concerned about at that time, given the issues with
2 the trains. That we had also spoken about that
3 when we were talking about the ombudsman getting
4 involved.

5 I believe there were sections there --
6 and this is information I should go back and look
7 for you, for documents. But I believe there's
8 information there around the warranty in
9 particular. I've asked about that in other forums,
10 in private settings.

11 I think those were the big ones. It's
12 just, you know, I was concerned with getting the
13 contract to work better for us, or potentially
14 exiting the contract and how to do that with
15 minimal financial penalty, while having service
16 restored for residents. That was the main concern
17 at the time when I was, you know, inquiring about
18 the project agreement.

19 KATE McGRANN: Following the second
20 derailment on the line, I understand that you urged
21 Councillor Hubley to step down from his role as
22 Chair of the Transit Commission; is that correct?

23 SHAWN MENARD: Yes.

24 KATE McGRANN: What purpose did you
25 think it would have served for him to step down

1 from that position?

2 SHAWN MENARD: I mentioned at the time
3 in the meeting that we had had these derailments,
4 we had had severe loss of life in another transit
5 incident in Westboro. And that the public was very
6 unhappy with the leadership of the City around this
7 issue, because they had been, again, very
8 deferential, very subservient to authorities on
9 this and not residents. And so it was, in my view,
10 a need of leadership change to show, to show a
11 change. To have somebody that could come in and be
12 a new voice for residents who communicate more
13 often with them about what was occurring and, you
14 know, to reestablish trust. That was the main
15 reason why I asked him to step down.

16 KATE McGRANN: From where you're
17 sitting as a Councillor, what consultants to the
18 City have been the most active or involved in the
19 oversight of the operations of the system?

20 SHAWN MENARD: Consultant?

21 KATE McGRANN: Yes.

22 SHAWN MENARD: So, I mean, initially,
23 the consultants were, you know, Deloitte, Boxfish,
24 they were heavily involved. And, of course,
25 there's family relations there within the City.

1 After that, you know, like Sam Berrada
2 has been involved. I'm just trying to think
3 through in terms of consultants. Obviously Norton,
4 Rose, Fulbright heavily involved in LRT in Ottawa.

5 I'm not sure. I'm sorry if I'm missing
6 the direction, but those are some of them.

7 KATE McGRANN: All right. You said
8 Deloitte, you said Boxfish, and then you said there
9 were some family relations with the City. What
10 were you referring to?

11 SHAWN MENARD: Well, I mean Boxfish and
12 Brian Guest, obviously was heavily, heavily
13 involved. Robyn Guest, in the Mayor's office now,
14 I believe previously with the City Manager. And of
15 course Chris Wale, who's also family relations,
16 husband of Robyn Guest. And all of them were
17 intimately involved in Ottawa's LRT projects.

18 KATE McGRANN: Do you have any specific
19 concerns with the work that Boxfish did for the
20 City on this project?

21 SHAWN MENARD: Absolutely. I think
22 that the Lessons Learned Report piece is,
23 obviously, you don't merely hire somebody who's
24 been heavily involved initially in the procurement
25 of the system, and the push towards a

1 public-private partnership, to then hire to help
2 advise on lessons learned, totally egregious. So
3 that's a major concern. Sorry, go ahead.

4 KATE McGRANN: No. You go ahead,
5 sorry.

6 SHAWN MENARD: Well, I think, you know,
7 the way that the City was kind of led towards
8 privatization in those reports in the early 2010s
9 was systematic. It was part of the consultant's
10 goal, or view it seemed, to get the City to move in
11 that direction in the reports that you read.

12 And it evolved. It evolved again from
13 a design-build-finance -- it evolved from a
14 design-build, to design-build-finance, to
15 design-build-finance-maintain. And you can see it
16 in the consecutive reports where it evolves into
17 that. And you know, from a 15-year deal to a
18 30-year deal, and I think consultants were heavily
19 involved in that.

20 I think the alignment of the train, the
21 decision to go underground in the first place,
22 there were consultants involved in that as well.

23 Yeah, I'm not sure what other details I
24 can share, I wasn't there at the time, but just in
25 my reading of the reports, it appears that there

1 was a big push for privatization, primarily from
2 consultants at that time. And that that
3 procurement model was heavily preferred, and that
4 council wasn't given proper risk considerations in
5 those documents when you read through them again.

6 KATE McGRANN: I'm aware of a joint
7 statement that you issued with Councillor McKenney,
8 that included the statement: "This rollout of LRT
9 has confirmed the worst fears of the P3 procurement
10 undertaken".

11 Are you familiar with the statement
12 that I'm referring to?

13 SHAWN MENARD: Yes.

14 KATE McGRANN: What are the worst fears
15 of the P3 procurement undertaken that you
16 referenced in that statement?

17 SHAWN MENARD: I mean, there were
18 several.

19 The big ones are that there is a lack
20 of information that gets out to the public, even
21 when requests are made.

22 There is a lack of accountability from
23 public officials, because the blame is apportioned
24 to the private sector partner.

25 There are major financial implications

1 of these, when it comes to economic concerns of the
2 failure here, which have come to pass. And the
3 risks that weren't originally apportioned, such as
4 major legal risk costs and costs to run parallel
5 bus service, for extra staff, that we don't know
6 that we'll get back in legal proceedings. Those
7 main concerns we were outlining.

8 Many of these things around the
9 finances have been outlined by Bonnie Lysyk in
10 Ontario as well, in terms of overall costs. And we
11 saw that here, the value for money apportion; the
12 risk apportioning of reducing, supposedly reducing
13 public sector risks and putting the risks onto the
14 private sector, and the savings that that is
15 supposed to bring, it almost never comes to pass.
16 And in fact, it becomes more expensive for the
17 municipality than had they taken the work for
18 themselves.

19 So all of those were well-known when we
20 put out that statement, and seem to have occurred
21 here.

22 KATE McGRANN: Based on where you're
23 sitting today, do you have a view on what delivery
24 model ought to have been used by the City to
25 achieve system in Stage 1 of the LRT?

1 SHAWN MENARD: I mean, in the ideal
2 world, it would have been much more considered than
3 it was. And, you know, the public procurement of
4 our original line in Ottawa, worked out well.

5 We had other operators there, but it
6 worked out very well in the way we procured the
7 original train, the north-south line in Ottawa,
8 that's been shut down for the Stage 2 line that is
9 under construction now.

10 So I mean, what I would have liked to
11 have seen is much more discussion and information
12 to council of both Stage 1 and Stage 2 on the
13 potential risks here, and the positive benefits of
14 procuring these things publicly. Which again,
15 they're not mentioned in these reports. All it is
16 is glowing references to P3 procurement when you
17 read those reports. It is leading you down that
18 garden path.

19 KATE McGRANN: Ms. McLellan, do you
20 have any follow-up questions on anything that we've
21 discussed here?

22 LIZ McLELLAN: No, I don't.

23 KATE McGRANN: Councillor Menard, is
24 there anything that we haven't discussed yet, that
25 you think we should be asking you about as part of

1 the Commission's work?

2 SHAWN MENARD: I'll just mention a few
3 things.

4 So I think it's important to flag that
5 additional trains were purchased prior to the
6 launch of the system, without having them fully
7 tested, in a decision by FEDCO, again, without
8 first seeing them operate, more than the original
9 trains that were purchased.

10 I think the rush to launch is a big
11 concern. The rush to align with political
12 objectives and the pressure at the time. I think
13 the 12 days of testing is important, the City
14 allowing multiple shutdowns of the system is
15 something we haven't talked about, to try and fix
16 systemic issues. The system has shut down
17 repeatedly for days, and sometimes weeks on end, to
18 allow for work to occur, with problems continuing
19 after those shutdowns, including derailments.

20 Let me just see. I think that covers
21 it. I think that overall covers it. You've
22 covered a lot of ground.

23 Yeah, we went into the contract for the
24 Boxfish Group, and the lessons learned on
25 Confederation Line project specifically to provide

1 early advice on the preliminary implementation of
2 Stage 2 project. Having a sole source contract at
3 that time. The Mayor's direction in budget 2011 is
4 important. That led to adding the
5 design-build-finance-maintain portion and to push
6 for an earlier launch, push for an earlier
7 acceptance of the system through that procurement,
8 and that was the budget direction after having, you
9 know, been elected. I think that was an important
10 decision that was made.

11 We mentioned early on that there would
12 be 16 million a year in savings for when buses were
13 removed as a result of the LRT launch. And of
14 course that has not come to pass.

15 The maintenance cost influx, I think we
16 went through that.

17 Okay, I think that's good.

18 KATE McGRANN: Okay. We talked about
19 this a little bit, but I just want to ask you this
20 question before I shift focus here.

21 The rush to launch, is there anything
22 that you think that could have been done
23 differently over the life of the project, that may
24 have created a different environment around the
25 launch date, added to the route around when the

1 launch needed to take place?

2 SHAWN MENARD: I mean, had we not
3 signed a P3, I think you would have had a different
4 outcome. If it was just a design -- if it was
5 designed in-house, and then the bid-build project
6 process within a normal procurement, you know, the
7 pressure likely would have been different as a
8 public sector body launching it. I think that it
9 was designed to launch just prior to an election,
10 right? That is when it was originally set out in
11 the project agreement for the first handover date,
12 just prior to an election in October.

13 There was a big push to advance it a
14 year, and that advance of the year put it in that
15 date. What else?

16 I think that's -- I mean, I think those
17 two are relevant. What would have changed it is, I
18 think, you know, staff being forthright about the
19 major problems that were occurring prior to it, and
20 that was not just during the testing phase, but
21 prior to those 12 days of testing, the major issues
22 that were coming out at that time, that have been
23 revealed by the media afterwards, that would have
24 absolutely changed the narrative around it at that
25 time.

1 KATE McGRANN: Why do you think the
2 pressure might have been different if this had been
3 a project advanced by the public sector as opposed
4 to a P3?

5 SHAWN MENARD: Well, the pressure that
6 the City was apportioning to RTG at the time, you
7 know, we would have had a builder in, but it's not
8 like we would have that same builder, but we would
9 have had a builder in anyway. And there would have
10 been markers within that contract as well, so there
11 would have been some similarities. But there's
12 ownership of the system, and it's a City system,
13 and it's ours, you know, in terms of maintenance of
14 the system. In terms of when, you know, our
15 decision on revenue service launch.

16 I think there's more accountability
17 there. It is about us choosing when to do it and,
18 you know, not reliant on the private sector body
19 that you signed a 30-year deal with. And so I
20 think you can then, you know, choose a different
21 date, perhaps, in terms of, you know, when you
22 would actually like the thing to get launched off
23 the ground. You know, you may not have it launch
24 at that same time if it's a publicly procured
25 project.

1 I guess, you know, what is the --
2 what's the reason for that? Well, you know, I
3 guess the rush that these contractors are feeling
4 now in Stage 2, that I haven't seen, they have been
5 asking me for night work over and over in my ward,
6 because they were rushing prior to the announcement
7 that it was going to be delayed.

8 I just think there's a difference there
9 in terms of, if it's your own employees doing it,
10 you know, if it's your own contract, you -- I don't
11 know. You may be more apt to say, "look, I'm going
12 to delay this a little bit".

13 My answer is not very good on this,
14 maybe I can send you something else as I think more
15 about it. But, you know, definitely there's
16 something to be said about the style of
17 procurement. Whether that would have led to a
18 different launch date, I guess is the question. So
19 I'll think about that some more.

20 KATE McGRANN: The Commission has also
21 been asked to make some recommendations to try to
22 prevent issues like this from happening again.

23 Are there any specific recommendations
24 that you would suggest, that you would consider or
25 more generally areas that you think you should be

1 looking at for potential recommendations?

2 SHAWN MENARD: Yeah, the biggest one is
3 that the City had failed originally to
4 appropriately assess and mitigate risk. And as a
5 result, again, have put residents at great risk.

6 And so this is important. We need a
7 challenge function on council and within staff.
8 The reports that came out were, again, as I said,
9 glowing. And so that is one of the biggest
10 recommendations is, is move away from that.

11 The use of delegated authority as well,
12 we had delegated extreme authority in this case,
13 and -- well, council did previously -- over and
14 over again, in multiple reports. And that means
15 that things don't come back to you, you don't have
16 that challenge function occur within an open public
17 session on council. That's important.

18 You know, I think those -- having
19 independent councillors that aren't just
20 subservient to the Mayor, is also very important.
21 That's how you are elected, you're not supposed to
22 be serving in a party. You know, and the fact that
23 the lack of independence on this council and
24 previous councils, and that subservience, didn't
25 serve Ottawa well when it came to this project.

1 KATE McGRANN: Anything else?

2 SHAWN MENARD: That's a big part of it.

3 Obviously, the public-private
4 partnership aspect of this is, you know, it's
5 hugely impactful, given where we're at.

6 And so, you know, I think that there
7 needs to be a full review of procurement, and it
8 goes along the lines of the reports of the Auditor
9 General. That shouldn't just stand, having reports
10 come out in Ontario that way with the, you know,
11 the push for Infrastructure Ontario, and what
12 they've done.

13 The need here, I think, is to really
14 reassess value for money within procurement project
15 and how they're procured; the length of time that
16 they're procured for; and the risk assignment that
17 occurs in those, which again is very much -- is a
18 private sector-driven motive.

19 You have private sector consultants
20 usually come in and tell you to go with the private
21 sector, or projects that will benefit the private
22 sector more than the public sector. And this
23 occurs over, and over, and over again. And we've
24 seen in our city other examples, like Landsdowne
25 Park, and the privatization of that park, and the

1 lack of funds that have come back to us this way.

2 So this was a Mayor that wanted to come
3 in and have big projects, large projects that
4 showcased positive, you know, city-building
5 initiatives. And one of the quickest ways for them
6 to do that, and easiest ways for them to do that
7 was to go with, you know, a P3 project.

8 But the easiest way is now coming back
9 to haunt us, because all of those statements that
10 were made in those original reports, turned out to
11 be false. You can read them over, and over again,
12 they all turned out to be essentially false.

13 So if that doesn't wake people up to
14 the model, procurement model, I think nothing will,
15 really.

16 KATE McGRANN: In your answer you
17 referenced IO and what they've done.

18 What were you talking about there?

19 SHAWN MENARD: Infrastructure Ontario
20 very much was involved in getting municipalities to
21 privatize services.

22 They'll come in and, you know, give you
23 the potential benefits of P3s. And in this case,
24 that's what occurred in terms of the original
25 procurement. The City was, I think at first --

1 they didn't go with them in the second stage, of
2 course, not that it's been any better. But in the
3 first stage they came in and talked to the City
4 Manager, and had had discussions with them about
5 how this could be potentially utilized as a P3 and,
6 you know, were involved with the City during the
7 procurement to undertake that, including the value
8 for money analysis.

9 And so, I just mean they're set up for
10 a very specific purpose, much like the Canadian
11 Infrastructure Bank in some ways, you know, in
12 terms of the provision of private projects that
13 would normally be public projects.

14 KATE McGRANN: Any other specific
15 recommendations or potential area for
16 recommendation that you wanted to share with us?

17 SHAWN MENARD: No, I think that's good.

18 KATE McGRANN: Okay. Mr. Wardle, do
19 you have any follow-up questions you wanted to ask?

20 MR. WARDLE: I don't, thank you.

21 KATE McGRANN: Well, then I'll say,
22 thank you very much for your time this morning.

23 We'll be in touch with a follow-up
24 e-mail to Mr. Wardle on some of those topics that
25 you were going to go away and look for e-mails and

1 things like that on.

2 Thanks for your time.

3 SHAWN MENARD: Okay. Thanks very much.

4 Have a good day.

5 MR. WARDLE: Thank you.

6

7 -- Adjourned at 11:00 a.m.

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1 REPORTER'S CERTIFICATE

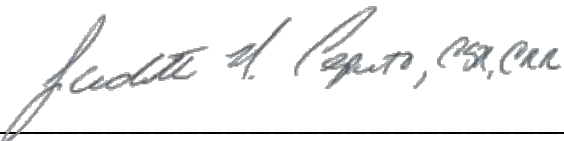
2
3 I, JUDITH M. CAPUTO, RPR, CSR, CRR,
4 Certified Shorthand Reporter, certify;

5 That the foregoing proceedings were
6 taken before me at the time and place therein set
7 forth; at which time the interviewee was put under
8 oath by me;

9 That the statements of the presenters
10 and all comments made at the time of the meeting
11 were recorded stenographically by me;

12 That the foregoing is a Certified
13 Transcript of my shorthand notes so taken.

14
15 Dated this 12th day of April, 2022.

16 
17 _____

18 NEESONS, A VERITEXT COMPANY

19 PER: JUDITH M. CAPUTO, RPR, CSR, CRR
20
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WORD INDEX

< \$ >

\$7 44:7

< 1 >

1 6:23 7:11
8:6, 18 20:12
27:14 51:20
52:5, 6, 9 53:13,
16 54:8 55:5, 6,
9, 19, 25 56:21
57:21, 25 58:13,
24 77:25 78:12
10 11:8 32:6
11 1:8 11:8
11:00 1:16 88:7
11th 1:15
12 11:8 22:1,
19, 22 36:11, 19
37:6 41:7
42:15 59:10
79:13 81:21
12-day 21:23
12th 89:15
13 32:6 69:12
14th 36:22
68:13
15 17:2 68:19,
23
15-year 75:17
16 80:12

< 2 >

2 38:8, 12
41:15 50:25
51:11, 21 52:5,
13 55:7, 13, 19
56:9 57:9
58:23 78:8, 12
80:2 83:4
2000 7:3
2009 5:4 11:8
12:9 15:22
19:12 59:9
2010 18:22
2010s 75:8
2011 80:3
2012 12:10
15:22 19:13, 15
20:4
2013 20:4
2015 54:20, 23
2017 19:21
20:1, 4

2018 6:2, 21, 24
19:15 20:1
59:12, 20, 21
67:15, 22 68:8
2019 36:23
38:12 68:13
69:17 70:4, 21
2020 71:3
2021 25:4
2022 1:8, 16
89:15

< 3 >

3 50:25 56:12
30 17:3
30-year 13:18
75:18 82:19
33 5:3, 16
35 24:19

< 4 >

47:16 3:8
48 42:1
48-hour 22:20
49:9 3:8

< 5 >

5 5:18
50:10 3:8

< 6 >

6 5:3
67:18 3:9

< 7 >

7 5:16

< 8 >

8 7:4

< 9 >

9 7:4
9:00 1:16
9:03 4:1

< A >

a.m 1:16 4:1
88:7
ability 61:12
Absolutely
34:13 74:21
81:24
accept 37:8
65:16, 21 70:23

acceptance 80:7
accepted 51:15
access 71:23
accomplish
54:7, 9
account 20:19
accountability
8:12, 23 9:5, 8,
12, 22 10:3, 10
17:24 32:5
49:3 63:15, 17
71:17 76:22
82:16

accurate 33:18
53:2

achieve 77:25
achieved 36:14
Act 5:4, 17, 19

actions 33:24
70:22

active 73:18
actual 53:6
55:12 57:11
69:6

added 80:25
adding 80:4
addition 45:24
64:17

additional 79:5
address 61:13
adequately
64:14

Adjourned 88:7
administration
10:9 19:3 43:8
61:8

admission 48:25
advance 33:8
81:13, 14

advanced 82:3
advice 26:23
27:1, 2, 13
32:19 80:1
advise 75:2

advised 5:17
Advisory 7:2, 14
AFFIRMED 4:3
after 4:16 6:10
21:6 30:23
31:14 33:6
35:18 39:14
44:3, 16, 17
45:17 56:4, 5

59:21, 23 61:19,
20, 25 62:9
74:1 79:19 80:8

agenda 30:17
agree 64:19
agreement 28:8
61:6 66:21
67:24 70:19
71:20, 22 72:18
81:11

agreements
57:12

ahead 18:23
32:21 75:3, 4

align 50:24
79:11

alignment 7:17
75:20

allow 17:22
54:9 66:9 79:18

allowing 79:14
Alstom 13:24

33:22 61:17
alternative 43:3
alternatives
14:20

amount 28:2, 6,
9 43:2

analysis 13:7
28:14 30:25
31:1, 4, 9 53:11
54:8 55:4, 24
63:8 87:8

Anne 56:18

announcement
83:6

anticipated
37:18

anticipating
68:7

anybody 14:18
27:14 46:9, 14

anymore 44:16
anyway 17:13
82:9

apologize 48:24
appear 3:8
appeared 17:21
appears 17:13
36:25 37:1
39:23, 24 66:2,
23, 24 75:25

appended 5:2
application
56:13

applied 56:8, 11
apply 56:3
apportion 44:19,
21 77:11

apportioned
13:9 43:3
60:24 64:18
76:23 77:3

apportioning
77:12 82:6

apportionment
9:25 14:7

approach 16:10
33:5 40:21, 23
51:11 53:13

appropriate
12:5 13:19
19:6 43:2 44:11

appropriately
9:3 84:4

approve 14:23
approved 38:12
approving 41:17

APRIL 1:8, 16
89:15

apt 83:11
arbiter 37:9

arbitrarily 15:1
area 8:23 87:15

areas 36:6
67:4 83:25

arising 57:16
arose 33:6

ascribed 15:1, 3
ascribing 23:10

aside 55:22
asked 5:6 24:9
42:11 46:14, 16
48:18, 24 49:14
58:21 72:9
73:15 83:21

asking 18:18
24:24 27:11
78:25 83:5

aspect 85:4
aspects 7:17
41:24 64:11

assess 9:3
10:12, 14 84:4

assessment
31:8

assignment
85:16

assistance
70:24

<p>associated 11:1 13:3, 11 assume 12:10 assuredness 14:18 attending 1:15 audio 55:14 Auditor 15:18 85:8 authored 54:21 authorities 73:8 authority 12:2 41:21 84:11, 12 availability 19:20 29:25 36:15 57:1 available 25:24 28:11 42:17 68:24 avoid 32:5 avoiding 9:5, 15 aware 28:14 34:16 66:6, 11 68:13 69:14 76:6</p> <p>< B > back 7:3 8:2, 3 10:17 11:7 13:6 16:3 17:11 21:12 22:8, 10, 13 29:5 30:24 31:5 35:15 43:1 47:16 50:4, 17 53:17 55:16, 18 58:23 62:3 63:4 64:4, 5 72:6 77:6 84:15 86:1, 8 background 6:8 baked 37:18 Bank 87:11 based 23:5 77:22 basis 4:20 34:18 35:12 62:22 battles 15:4 began 6:9 belief 52:19 believe 24:10, 19 25:22 38:11 53:17, 23 55:19 67:25 68:4</p>	<p>69:8 71:2 72:5, 7 74:14 benefit 85:21 benefits 78:13 86:23 Berrada 63:21 74:1 best 12:3 14:14 15:14 17:16 69:20, 24 better 50:19 60:24 72:13 87:2 bid-build 81:5 big 10:15 18:22 21:23 31:2 39:6, 13 52:20 72:11 76:1, 19 79:10 81:13 85:2 86:3 biggest 44:6 84:2, 9 billion 44:7 bit 6:7 16:14 18:10 19:16 29:20, 22 44:23 59:17 80:19 83:12 blame 44:19, 22 60:19, 22, 23, 25 61:16 63:16, 17 76:23 body 9:13 62:7 81:8 82:18 bogus 15:15 Bonnie 15:12, 17 77:9 boutique 53:22 Boxfish 16:18 54:21 64:4 73:23 74:8, 11, 19 79:24 braking 25:14 brand 13:25 58:15, 18 59:1, 2 Brian 74:12 bridge 45:17 briefing 46:12 briefings 26:15 30:7 bring 49:6 59:7 62:1, 7, 9 64:13 77:15 bringing 61:23 62:5, 11 64:4</p>	<p>brought 55:11 64:2 70:7 budget 11:16 37:20, 21 80:3, 8 build 10:7 27:8 builder 82:7, 8, 9 building 51:16 build-out 23:14 built 13:20 56:10 bunch 19:24 bus 17:17 25:23 37:17 77:5 buses 80:12 business 6:18</p> <p>< C > calculated 15:1 40:11 calculation 18:17 Calgary's 58:22 call 17:19 31:15 32:23 called 46:1 70:21 calling 32:6, 25 71:6 calls 8:12 9:16 cam 58:23 camera 45:16 47:8 Canada 5:19 Canadian 6:16 87:10 capabilities 33:22 capacity 68:3 Caputo 2:21 89:3, 19 care 52:24 Carol 56:18 case 49:19 53:3 68:25 84:12 86:23 cases 49:1 catastrophic 45:17 catenary 20:23 23:22 caution 26:18 32:18 certain 16:24</p>	<p>certainly 8:3 39:8 41:2 54:1 68:9, 25 CERTIFICATE 89:1 Certified 89:4, 12 certifiers 37:4 certify 89:4 Chair 72:22 challenge 11:25 12:4 15:21 16:1, 8, 13 17:11 18:6, 11, 18 19:2, 6, 10 20:6 41:24 43:13 44:12 84:7, 16 challenged 42:3 challenging 19:9 change 39:21 42:13 44:23 56:21, 25 73:10, 11 changed 23:9 29:24 33:4 34:3 37:18 40:21 42:4 52:12 56:23 57:4 59:21 60:5 62:8 81:17, 24 changes 15:4 41:17 44:17 changing 16:25 channels 35:5 cheapest 24:11 check 29:5 53:18 Chianello 34:24, 25 48:11 Chianello's 35:9 choose 82:20 choosing 82:17 chose 61:2, 3, 4 Chris 74:15 circle 22:12 circumstances 29:3 cities 6:19 CITY 1:7 2:9 5:25 6:5, 9, 20 7:3, 14 9:2, 9 10:12, 14 11:19 12:11 14:5</p>	<p>16:3 17:12, 16, 17 18:7 19:7 26:19, 24 27:5, 13 28:12 29:14, 21 33:5, 20 36:10 37:5, 8 38:24 39:20, 21 41:4, 12, 18 43:8 44:17 46:11, 18 47:1, 7, 15 49:4, 5, 7, 16, 23 50:4, 5, 21 51:5 52:8, 9 53:11 54:9 55:4 56:1, 6, 14 58:2 59:12, 14, 24 60:11 61:2, 3, 4, 17, 22 62:1 63:15 65:15 66:17, 20 67:10 69:15, 16 70:23 73:6, 18, 25 74:9, 14, 20 75:7, 10 77:24 79:13 82:6, 12 84:3 85:24 86:25 87:3, 6 city-building 86:4 City's 44:7 62:15 63:24 civil 5:9 claims 26:19 clear 10:18 16:23 17:8 33:10 34:10, 19 48:11 62:25 66:16 67:15 climate 59:8 close 57:10 closure 25:12 Co-Lead 2:3 come 7:5 20:24 27:12, 23 31:7, 14 44:10 51:5 52:3 55:14, 18 61:15 64:5, 20 73:11 77:2 80:14 84:15 85:10, 20 86:1, 2, 22 comes 16:14 19:22 22:8 61:11 77:1, 15</p>
---	--	---	---	--

<p>coming 38:16 41:17 45:7, 12 46:15 47:10 71:12 81:22 86:8 commence 4:13 commencing 4:1 commentary 15:10 comments 89:10 COMMISSION 1:6 2:1 4:10 28:1 45:14 63:5 72:22 83:20 Commissioner 9:23 Commission's 4:11, 15, 19 79:1 Committee 7:3, 14 30:16 35:23 common 15:7 communicate 73:12 communicated 41:18 communication 21:4 24:16 46:13, 18 communications 21:21 26:20 communication- wise 30:11 COMPANY 89:18 compare 29:2, 18 compared 27:15 29:7 56:7, 15 comparing 28:15 58:21 comparison 29:7 56:13 competition 13:20 complete 48:22 54:25 completed 67:6 69:3 completely 23:11 completing 6:10</p>	<p>completion 20:13 57:10 concept 55:23 concern 9:25 19:23 20:6 23:25 41:9 44:6 45:1 46:7 47:8 51:7 61:23 71:16 72:16 75:3 79:11 concerned 44:25 64:12 66:1 72:1, 12 concerns 19:11, 13 35:2, 10 42:23 65:23 71:19 74:19 77:1, 7 conclusions 16:14 conducted 53:11 Confederation 79:25 conference 71:3 confidence 40:7 confidential 4:20 confirm 26:15 51:6 confirmation 27:3, 23 confirmed 23:15 26:5 27:8, 20 76:9 connection 22:3 consecutive 22:23 23:1 36:19 41:7 75:16 consecutively 22:1 consequences 11:10 consider 52:1 83:24 consideration 11:22 13:3 14:21 51:14 66:7, 12 considerations 11:10 16:11 76:4</p>	<p>considered 11:2 12:18, 19 13:12 78:2 considering 10:24 consolidated 30:15 constantly 43:1 construction 13:13 19:19 20:8, 13 54:24 78:9 Consultant 73:20 consultants 73:17, 23 74:3 75:18, 22 76:2 85:19 consultant's 75:9 consultations 7:10 consulting 7:18 contemplated 67:23 continue 36:16 continues 20:1 continuing 79:18 contract 10:16 12:15 13:19, 21 17:2, 4 28:8 68:21 72:13, 14 79:23 80:2 82:10 83:10 contractors 83:3 contracts 10:19 contradict 52:19 contradicting 71:13, 14 contradictory 9:19 contributed 19:2 40:2 42:10 contributing 40:16 control 13:22 17:21 24:15 61:12, 17 controlled 61:18 controlling 41:23 conversations 70:11</p>	<p>core 69:9 corporate 6:14 correct 4:23 6:2 26:1 28:4 64:16 72:22 corrections 4:15, 18 5:1 cost 15:14 24:12 58:20 80:15 costs 13:12 17:3 77:4, 10 council 6:24 11:25 12:5 13:17 14:21 18:6 19:14 20:10, 11, 15 22:14 27:23 29:21, 25 30:19 35:22 39:14, 15 41:9, 10, 18 42:4 46:9 49:14 50:24 52:17 55:7 58:1 59:12 70:3, 7 76:4 78:12 84:7, 13, 17, 23 Councillor 6:1, 5, 9, 20 8:7 26:17 30:12 48:8, 9, 18 54:19 56:3 72:21 73:17 76:7 78:23 councillors 16:12 29:10 47:5 52:2 71:4 84:19 councils 14:22 84:24 COUNSEL 2:1, 3, 4 4:19 26:14, 20, 24 32:15, 20 50:13 country 6:19 Couple 34:5 49:10 coupler 25:9 course 24:17 29:24 31:24 34:4 44:24 59:22 60:9 73:24 74:15</p>	<p>80:14 87:2 Court 60:9 cover 32:1 covered 79:22 covering 51:22 covers 79:20, 21 created 80:24 creates 38:5 Crown 5:10 CRR 89:3, 19 CSR 89:3, 19 currently 6:4 cuts 55:14 < D > date 23:25 28:4 60:15 66:19 67:23 68:5, 7, 9 71:8 80:25 81:11, 15 82:21 83:18 Dated 89:15 dates 8:19 68:1 day 1:15 29:11 39:10, 12 45:10 62:2 63:3 88:4 89:15 days 22:1, 19, 22 23:1 36:11, 19 37:6 40:25 41:7, 16 42:14, 15 79:13, 17 81:21 deal 33:24 75:17, 18 82:19 Deasy 2:22 decade 19:4 43:9 decision 7:6 37:9 38:8 40:9, 17 42:10 52:1, 8 62:8 63:24, 25 70:6 75:21 79:7 80:10 82:15 decision-making 36:21 decisions 9:12 20:7 41:12 52:9 61:7 deemed 5:5 default 26:9, 11 28:3, 7</p>
--	---	---	--	---

<p>defaults 15:4 23:16 26:8 28:6 60:8 65:7 defence 48:22 defending 23:7, 8 59:25 deference 12:1 41:20 deferential 73:8 deficiency 57:12 definitely 83:15 definitive 14:13 degree 6:11 18:17 delay 8:9, 17 13:14 22:21, 25 52:1 59:18 83:12 delayed 19:21 83:7 delays 25:10 39:1 57:9 delegated 41:20 84:11, 12 delegation 12:1 deliberation 10:20 delivery 77:23 Deloitte 16:17 54:21 64:5 73:23 74:8 Department 6:13 derailed 45:7, 11 derailment 20:20 43:23, 24, 25 44:3 45:4, 11 61:20, 25 72:20 derailments 8:10 31:12 45:23, 25 60:8 73:3 79:19 describe 8:5 48:21 described 12:23 13:14 14:11 describing 33:17 design 12:14 58:16 59:3 81:4 design-bid-build 10:25 design-build 10:25 17:7 75:14</p>	<p>design-build- finance 10:22 13:7 17:8 75:13, 14 design-build- finance-maintain 11:13 14:14 75:15 80:5 design-build- maintain 17:7 designed 81:5, 9 designs 59:1 Despite 35:19 destination 65:11 detailed 16:4, 5 details 16:21 46:4 75:23 Development 30:16 difference 83:8 different 19:17 29:2, 16, 17, 18 36:6 40:23 46:14 51:11, 19 58:16 65:12 80:24 81:3, 7 82:2, 20 83:18 differently 42:13 54:10 56:1 80:23 difficult 14:22 22:15 30:18 31:10 difficulties 22:3 difficulty 21:17 dig 48:19 50:10 63:2 diligence 37:5 direction 14:22 16:24 53:20 58:19 74:6 75:11 80:3, 8 disabled 25:12 disclose 21:14 disclosed 47:11 discuss 13:17, 18 70:10 discussed 13:21 26:18 35:21 57:17 70:14 78:21, 24 discussing 15:25</p>	<p>DISCUSSION 22:9 35:19 66:7 67:20 70:6 78:11 discussions 35:17 68:14 69:15 87:4 docs 67:9 document 56:7, 15 documentation 66:24 67:1 documents 3:1, 7 10:17 11:22 12:8, 11 17:9 18:24 21:4, 5 29:11 47:19 59:6, 9 66:15 67:10, 14, 17, 22 70:16 72:7 76:5 doing 6:18 41:8 83:9 door 21:9, 10, 14 25:3 doors 21:11 25:2 35:21 dragged 37:22 drivers 37:16, 17 due 37:5 dynamic 63:6 < E > Earlier 57:19 62:13 64:25 68:1, 5 71:6 80:6 early 7:19 9:11, 24 10:23 11:7 25:4 59:9 65:13 67:15 75:8 80:1, 11 easiest 86:6, 8 Economic 30:16 77:1 economy 40:6 effectively 11:4 efficient 40:13 efforts 32:5 egregious 75:2 elated 12:6 elation 39:9 elected 6:1, 20 8:7 9:21 18:22 19:6 22:17 80:9 84:21</p>	<p>election 6:24 59:20, 22 81:9, 12 electric 24:8 Elizabeth 2:22 e-mail 47:18 48:9, 14, 19 49:13 50:2, 13 87:24 e-mails 33:14 34:15, 21 35:1, 9 46:23 48:4 50:3 62:4 87:25 embodied 7:24 employees 83:9 encouragement 16:12 ended 17:2 ensuring 10:4 enter 4:10 entered 4:16, 20, 25 entertain 70:3 entire 42:5 environment 14:19 17:22 80:24 errors 4:24 65:20 Esq 2:11, 14 essentially 86:12 establish 5:8 52:16 established 7:14 evaluations 15:16 event 21:24 25:7 events 25:3, 9 26:9 28:3 30:23 everybody 38:4 evidence 4:6, 11, 16, 21, 25 5:12, 15, 19 28:13 34:9 39:5 57:19 evolved 75:12, 13 evolves 75:16 exact 46:19 50:8 71:8 exactly 38:10</p>	<p>example 11:19 21:16 22:20 56:25 67:2 examples 12:22 85:24 exceptional 14:16 exchange 47:21 49:13 50:2 exchanges 48:3 excuses 48:13, 16 exercise 55:5 exist 28:16 29:11 existed 19:24 existing 7:15 exiting 72:14 expect 26:14 expected 27:11 64:21 69:5 expensive 77:16 experience 20:17, 25 54:8 Experienced 22:2 23:24 experiences 54:10 experiencing 21:6 27:16 34:25 43:22 expertise 17:25 18:1 65:16 experts 55:11 explain 8:24 explained 19:12 explanation 47:25 49:24 expressed 35:11 extensive 34:24 external 70:24 extra 77:5 extreme 12:1 41:20 42:5 84:12 extremely 11:8, 12 eyes 64:17, 19 < F > facility 24:20 45:24 fact 16:23 21:25 27:6 29:16 32:14</p>
--	---	---	---	---

<p>45:20, 22 46:1 61:9 77:16 84:22 factored 38:10 failed 9:3 10:12, 14 84:3 failure 49:1 53:7 77:2 failures 34:1 fair 57:22 59:16 60:25 fairly 54:12, 14 false 23:12 32:4 33:9 86:11, 12 familiar 76:11 family 73:25 74:9, 15 fashion 53:14 fears 76:9, 14 features 58:7 59:7 FED 30:16 FEDCO 30:15 79:7 Federal 6:11 Federation 6:15 feel 31:16 50:18 52:15 59:17 62:24 feeling 60:12 83:3 feels 44:8 felt 17:15 files 8:2, 3 19:24 filings 60:9 final 37:9 finalize 49:9 Finally 5:3 43:25 63:10 Finance 30:16 finances 44:11 77:9 financial 40:5 72:15 76:25 find 26:10 27:23 28:7 61:24 finding 47:6 fingertips 48:21 fire 49:5 firm 53:22 firms 16:17, 18</p>	<p>53:19 fix 63:10 79:15 fixed 61:14 fixing 63:14 flag 79:4 flags 41:2 flats 61:20 focus 8:24 80:20 folks 62:2 65:10, 24 follow 19:14 34:5 50:13 followed 3:2 46:12 65:5 following 3:1, 8 72:19 follow-up 78:20 87:19, 23 foregoing 89:5, 12 foretell 33:7 forever 39:21 44:11 form 28:13 formal 18:12, 13 21:7 29:6 50:2 63:9 formally 28:19 formed 35:24 36:7 forms 35:12 forth 89:7 forthcoming 9:10 10:9 31:22 41:5 46:24 49:2 forthright 81:18 forum 35:19 forums 72:9 forward 56:1 58:11 found 35:6 53:1 fresh 64:17, 19 frozen 22:5, 6 Fulbright 74:4 full 41:24 46:18 48:15 59:2 63:8 66:8, 13 67:21 68:15 69:16 70:3 85:7 fully 40:11 47:17 60:25 67:2 69:4 79:6</p>	<p>fulsome 10:20 fulsomely 11:2 function 11:25 15:21 16:1, 8 17:11 18:6, 11 19:2, 10 20:6 41:24 43:13 44:12 84:7, 16 functional 12:14 40:13 functioned 42:5 functioning 69:6 functions 12:4 18:18 42:4 funds 86:1 Furthermore 13:6 future 8:13 56:9, 22 57:1 68:9 < G > garden 78:18 gas 24:8 general 13:10 15:18 85:9 generally 83:25 get-go 64:7 65:4 68:20 give 6:7 12:10 17:14, 20 20:10 21:13 31:7 46:2, 22 70:17 86:22 given 4:22 5:10 39:25 48:1 49:25 51:14 62:11 66:18 72:1 76:4 85:5 giving 5:15 17:18 43:3 62:18 glowing 11:24 54:13 78:16 84:9 goal 75:10 good 5:22 22:20 31:7 59:16 62:9 80:17 83:13 87:17 88:4 govern 52:24 Government</p>	<p>6:12, 17 52:23 gradually 17:4 great 9:4 20:5 23:25 25:1, 5, 16 28:21 33:11, 12 34:11, 20 35:13 37:12, 13 47:22 71:16 84:5 greater 18:17 34:2 37:23 57:7 grinding 24:3 ground 5:6 39:7 79:22 82:23 group 7:9, 13 79:24 Gruenberger 2:14 guess 6:25 7:4 9:1, 10, 14, 18 10:8 11:1 15:7 16:9 17:11 24:18 30:21 36:24 51:23 52:14, 22 56:10 66:5 70:12 83:1, 3, 18 Guest 74:12, 13, 16 guilt 10:1 gun 38:21 < H > handle 17:14 59:4 handover 8:19 20:13 39:8 42:11 55:1 65:16 67:16 81:11 happen 9:15 31:12 33:8, 25 happened 10:5 39:9 43:25 44:22 46:5 62:13 64:25 65:2 happening 43:11 83:22 happy 17:20 29:15 hard 65:18 haunt 86:9</p>	<p>head 16:24 hear 33:20 hearing 4:12 49:14, 15, 22, 23 71:13 Hearings 4:11, 13 heaters 24:7, 13 heating 24:7 heavily 16:17 53:25 73:24 74:4, 12, 24 75:18 76:3 heavy 37:15 Held 1:14 27:14 43:15 help 52:17 70:24 75:1 helpful 57:13 64:17 helping 65:10 hiccups 28:23 hindsight 65:22 hire 74:23 75:1 history 44:7 hope 54:7 hours 42:1 Hubley 72:21 huge 31:21 38:18 41:17 44:5 45:2 hugely 85:5 husband 74:16 hydro-related 25:7 < I > ideal 78:1 identified 26:4 47:9 identify 67:18 illuminated 15:18 illuminating 15:13 imagine 51:24 immediate 70:23 impactful 85:5 impetus 39:7 implement 70:10 implementation 80:1 implemented 25:8, 13, 18</p>
--	---	--	--	---

<p>implications 76:25 important 52:4 64:1 79:4, 13 80:4, 9 84:6, 17, 20 in-camera 31:17 47:7 incent 57:9 incident 73:5 incidents 9:17 20:17, 25 21:8 45:21 included 7:22 76:8 including 32:5 33:1 70:23 79:19 87:7 incorporating 8:14 increased 17:4 incriminate 5:7 independence 84:23 independent 37:3, 9 55:11 63:4, 19 64:9 70:24 71:7, 10 84:19 INDEX 3:5 indicating 32:3 individually 6:19 influence 17:10 influx 80:15 information 4:5 5:25 6:8 7:6 9:10 19:20 20:14 21:13, 24 22:16 23:2, 4 27:24 28:5 29:21, 22 30:1, 13, 22 31:23 34:6 35:16, 20 42:14, 16 43:12 46:10, 15 47:15 48:7 49:10, 22 50:4, 20 51:2, 12 52:11, 18 53:1 62:18, 20 71:21, 25 72:6, 8 76:20 78:11 infrastructure 20:22 23:13, 19, 20, 22, 24 24:1 25:19 26:3, 4,</p>	<p>16 27:7 53:8 67:6 69:1, 9 85:11 86:19 87:11 in-house 17:25 18:1 81:5 initial 8:9, 17, 18 63:24 66:19 initially 29:1 45:11 59:20 73:22 74:24 initiatives 86:5 innovative 58:12 input 7:20 inquired 46:9 Inquiries 5:4 inquiring 72:17 inquiry 5:5, 11 9:14 21:7, 12 28:1, 5 29:4 32:6, 24, 25 47:2, 18 50:2 56:17 57:13, 14 58:22 insight 70:17 inspections 25:11 instance 5:9 instances 11:18 intended 18:20 intends 4:10 interest 15:5 interested 29:10 interests 52:25 interim 19:19 20:3, 8 internal 62:22 internally 38:18, 20 62:4, 24 63:1 interview 4:6, 9 50:15 interviewee 89:7 intimately 74:17 introspection 61:22 involved 16:17, 21 53:25 64:13 71:5 72:4 73:18, 24 74:2, 4, 13, 17, 24 75:19, 22 86:20 87:6 involvement 6:23 8:6, 8</p>	<p>64:15 IO 86:17 issue 13:23 26:16 38:5 39:16 48:17 73:7 issued 76:7 issues 8:10 9:16 10:6, 8 11:9 14:10 15:19 20:21, 22 21:7, 9, 15 23:5, 10, 11, 12, 13, 19, 21, 23 24:1, 15, 17, 22 25:7, 13, 17, 20 26:3, 5 27:4, 6, 7, 10, 16 28:23 29:16 30:8 31:1, 9 32:4 33:6, 7, 16 34:1, 2, 25 35:7 36:1, 4 40:1 43:21 44:5 45:3, 5, 21 47:9 51:3, 9 52:6 53:9 56:4 60:13, 20 61:13 62:12 64:22 65:6 69:1 70:25 72:1 79:16 81:21 83:22 items 3:2 < J > jams 21:10 Joanne 34:24 48:11 joined 20:9 joint 76:6 judgment 17:19 65:24 Judith 2:21 89:3, 19 jumped 32:15 42:2 June 25:4, 11 Justice 6:13 < K > Kate 2:3 4:4 5:24 6:4, 7, 22 7:8, 21 8:5, 16, 22 10:11 12:8, 16 15:9, 20</p>	<p>18:9 19:11 20:9 22:6, 10 23:18 25:21 26:2 27:10, 22 28:10 29:12, 19 32:10, 13, 18 34:5, 14, 18 35:8 36:9, 20 38:14 40:15 42:8 44:2 45:2 46:8 47:13, 20, 24 49:9 50:12, 17 53:10 54:3, 6, 16, 23 55:22 56:14 57:3, 6, 15, 19, 24 58:8 59:11 60:4, 17, 21 63:19, 23 64:10, 23 65:15 66:6 67:8, 18, 19 68:11 69:11, 19, 22 70:1, 20 71:9, 19 72:19, 24 73:16, 21 74:7, 18 75:4 76:6, 14 77:22 78:19, 23 80:18 82:1 83:20 85:1 86:16 87:14, 18, 21 keeps 27:5 kept 31:16 Key 25:13 39:9 kind 21:19 49:8 53:11 55:5 65:9 75:7 kinds 50:19 knew 45:10, 16 knowing 45:15 knowledge 27:13 36:9 46:8 51:18 53:10 55:3 58:1 known 17:17 40:24 < L > lack 13:22 15:20, 25 19:2 21:3 42:6 61:12 76:19, 22 84:23 86:1 land 11:19 Landsdowne 85:24</p>	<p>large 15:8 38:19 39:6 40:10 86:3 larger 57:8 late 56:24 57:1 lately 60:3, 6 launch 10:8 21:6 28:24 30:8 33:7, 15 35:14, 18 36:8 37:2, 12, 13, 19 38:9, 13, 15 40:2, 16, 17, 23 42:9 51:2, 4, 5 52:10 56:6 59:22 61:4 65:4 66:19, 22, 25 67:1, 5, 7 68:3, 5 70:8 79:6, 10 80:6, 13, 21, 25 81:1, 9 82:15, 23 83:18 launched 11:4 12:20 19:1 37:24 38:22 39:18, 25 43:14 59:19 68:18 82:22 launching 36:22 81:8 Lauren 2:14 lead 35:7 leadership 47:12 73:6, 10 leading 78:17 learn 54:9 learned 8:15 16:22 53:12, 16, 23 54:1 55:5, 8, 13, 23 56:3 74:22 75:2 79:24 leave 42:8 leaving 55:22 led 19:5 36:22 75:7 80:4 83:17 legal 6:14 13:12 15:3 26:14, 23 27:1, 12 32:8, 14, 19, 23, 24 77:4, 6 Leiper 48:9, 18 length 13:20</p>
---	--	---	--	---

<p>85:15 lessened 40:22 lessons 8:15 16:22 53:12, 16, 23 54:1 55:4, 8, 13, 23 56:3, 11 74:22 75:2 79:24 level 48:25 liability 5:9 lies 11:16 life 73:4 80:23 LIGHT 1:6 52:3 liked 78:10 lines 55:16 85:8 listed 15:11 Litigation 2:4 28:12 31:21 Liz 2:4 57:18 78:22 LLP 2:12, 15 long 37:21 38:2 longer 7:15 64:21 looked 67:9 looking 18:12 32:19 58:2 71:22 84:1 loop 31:16 loss 40:7 73:4 lost 63:15 lot 10:18 17:20 19:19 20:4 21:18, 20 22:11 23:6 24:24 35:18 39:1 41:22 43:16 44:25 51:4 53:4 59:8 60:12 61:16 62:13 64:7 79:22 lower 14:6 15:5 lowest 24:12 LRT 6:23 7:5, 11, 16, 23 8:6, 13 12:7, 14 19:25 20:12 25:1, 16, 24 26:22 27:14, 15 31:18 38:3, 7, 8 52:7 53:25 57:25 58:3</p>	<p>74:4, 17 76:8 77:25 80:13 Lysyk 15:18 77:9 Lysyk's 15:12 < M > made 4:16, 18 7:9, 16 9:18 19:17 20:7 21:5, 7 28:20 38:8 54:13 57:20 65:20 68:10 70:15 76:21 80:10 86:10 89:10 main 14:10 23:20 72:16 73:14 77:7 maintain 10:23 13:8 33:23 maintenance 10:6 13:19 17:1, 2, 3 20:21 23:11, 12, 21 24:18, 20 25:14 26:11 27:4, 6 31:13 32:4 33:21 45:24 53:9 60:16 61:4 80:15 82:13 major 18:5 21:1 22:25 23:13, 18, 22 25:10 26:4 30:8 31:20 35:6 44:6, 8 60:7 61:23 65:20 66:3 75:3 76:25 77:4 81:19, 21 making 7:7 17:19 37:8 50:11 manage 17:15 18:2 management 6:13 9:21 42:7 45:10 manager 6:16 33:5, 21 37:5 49:4, 5, 7 62:1 74:14 87:4</p>	<p>Manconi 33:13 34:15 35:1, 9 48:15 Manconi's 34:21 mantra 37:21 manufacturer 58:17 manufacturing 54:25 March 38:11 markers 82:10 master's 6:11 material 28:11 materials 15:6 28:13 matrix 13:2 Mayor 12:1 18:22 41:11, 22 50:24 84:20 86:2 Mayor's 18:6 39:4 74:13 80:3 McGrann 2:3 4:4 5:24 6:4, 7, 22 7:8, 21 8:5, 16, 22 10:11 12:8, 16 15:9, 20 18:9 19:11 20:9 22:6, 10 23:18 25:21 26:2 27:10, 22 28:10 29:12, 19 32:10, 13, 18 34:5, 14, 18 35:8 36:9, 20 38:14 40:15 42:8 44:2 45:2 46:8 47:13, 20, 24 49:9 50:12, 17 53:10 54:3, 6, 16, 23 55:22 56:14 57:3, 6, 15, 19, 24 58:8 59:11 60:4, 17, 21 63:19, 23 64:10, 23 65:15 66:6 67:8, 19 68:11 69:11, 19, 22 70:1, 20 71:9, 19 72:19, 24 73:16, 21 74:7, 18 75:4 76:6, 14 77:22 78:19, 23 80:18 82:1 83:20</p>	<p>85:1 86:16 87:14, 18, 21 McKenney 76:7 McLellan 2:4 57:16, 18 78:19, 22 means 84:14 mechanical 70:25 media 21:1 35:6 37:24 47:6 49:15 50:20 51:6 52:18 62:16 71:12 81:23 Meehan 56:3, 18 meeting 26:19 73:3 89:10 meetings 18:19 35:22, 23 Member 2:3, 4 members 48:4, 5 memo 21:2, 22 32:8, 14, 23, 24 42:1 memos 21:21 MENARD 1:7 2:9 4:3, 4 5:22 6:3, 6, 10, 25 7:12, 25 8:8, 18 9:1 10:15 12:13, 21 15:12 16:2 18:15 19:16 20:16 22:4, 12 23:20 26:1, 7, 25 27:19, 25 28:17 29:14 30:2 32:12, 17, 22 34:13, 17, 23 35:15 36:13, 24 38:17 40:24 42:20 44:4 45:6 46:16 47:16, 23 48:2 50:1, 16, 22 53:15 54:5, 12, 19, 22 55:6, 18 56:2, 17 57:5, 7, 23 58:5, 13 59:15 60:7, 19, 23 63:22 64:3, 16 65:3, 18 66:15 67:12, 25 68:17 69:18, 20,</p>	<p>24 70:5 71:2, 11, 24 72:23 73:2, 20, 22 74:11, 21 75:6 76:13, 17 78:1, 23 79:2 81:2 82:5 84:2 85:2 86:19 87:17 88:3 mention 14:9 79:2 mentioned 8:22 10:11 15:20 42:16 73:2 78:15 80:11 merely 74:23 mess 10:3 met 51:20 metres 24:19 midst 6:5 million 80:12 mind 26:24 minimal 14:8 16:6 30:25 54:14 72:15 minimize 42:25 minimized 43:2, 24 minimizes 14:20 43:21 minimizing 51:8 minutes 16:4, 5, 6 misdirected 45:13 missed 8:19 22:10 missing 74:5 mistake 66:3 misunderstood 15:23 mitigate 9:3 10:12 84:4 mitigated 11:5 40:12 43:19 mitigation 13:2 42:6 model 10:23 13:8, 9 14:13 17:7, 8, 16 18:4 61:2 76:3 77:24 86:14 money 15:16 77:11 85:14</p>
--	--	---	--	--

<p>87:8 monitor 63:11 morning 87:22 motion 49:6 55:7 motive 85:18 move 43:6 57:15 58:11 75:10 84:10 moved 6:15 moving 18:3 multiple 22:21 24:3 25:12 28:20 29:9 31:1 36:17 46:2 47:5 67:3, 4 79:14 84:14 municipal 38:5 Municipalities 6:16 15:15 86:20 municipality 77:17</p> <p>< N > narrative 43:20 81:24 nature 16:25 20:11 29:20 necessarily 40:11 necessary 71:18 needed 65:16 81:1 needs 61:14 63:16 85:7 NEESONS 89:18 negative 11:10 new 13:25 18:22 19:3 39:19 57:21 58:11, 15, 18 59:1, 2, 3 73:12 nice 53:5 night 83:5 non- functionality 21:11 non- typographical 5:1 normal 27:17 28:22, 24 81:6 normally 26:10 28:7 68:4 87:13</p>	<p>north-south 78:7 Norton 74:3 Note 22:2 50:11 55:15 noted 3:7 notes 24:22 89:13 November 59:21 67:16 70:21 number 24:21 68:18</p> <p>< O > object 5:18 objected 5:5 objectively 64:14 objectives 40:5 50:25 79:12 obtain 31:10 occur 11:15 13:14 26:14 30:23 39:13 61:21 66:22 79:18 84:16 occurred 8:11, 14 9:13, 17, 20 10:1, 4 31:2, 8 32:2 38:13 39:2, 9 44:10, 18 45:18 46:3 48:23 53:7 56:21 60:8, 9, 10 61:20, 24 63:18 65:6 66:4, 25 67:1, 7 77:20 86:24 occurrences 31:13 occurring 9:11 10:6 21:8, 15 23:6, 14 25:3, 17 28:3 30:8 37:20, 25 40:1 41:5 45:22 48:17 51:3, 22 59:19 60:14, 20 61:1 62:12 63:1 73:13 81:19 occurs 85:17, 23 October 65:5</p>	<p>81:12 offering 66:8 office 8:20 18:7 39:4 67:13 74:13 officer 63:4, 20 officers 62:11 official 22:17 officials 19:6 76:23 ombudsman 9:16 71:5 72:3 ones 67:12 72:11 76:19 ongoing 64:22 70:25 Ontario 15:13, 17 77:10 85:10, 11 86:19 on-time 57:9, 10 open 24:9 36:5 40:18 55:2 68:12 84:16 opening 66:7, 12, 18 68:14, 15 openness 70:9, 13 operate 58:7 79:8 operating 65:17 operation 20:18 53:4 70:22 71:15 operational 52:7 69:9 70:25 operationalizing 52:7 operations 20:14 73:19 operators 78:5 opinion 17:19 35:24 36:7 opinions 26:22 opportunity 4:22 opposed 82:3 option 24:11, 12 options 15:2 order 4:12 51:23 original 10:7, 16 11:6 14:4 24:8 27:8 53:21 62:2 70:15 78:4, 7 79:8 86:10, 24</p>	<p>originally 17:1 67:23 77:3 81:10 84:3 OTTAWA 1:6, 7 2:9 7:3, 11 9:17 12:7 39:20 40:6 41:22 58:19 59:4 74:4 78:4, 7 84:25 Ottawa's 6:23 15:8 53:25 59:8 74:17 ought 77:24 outcome 52:13 63:10 81:4 outcomes 11:14 56:8, 16 outlined 77:9 outlining 77:7 outside 23:21 26:20 69:9 overall 20:10 77:10 79:21 overhead 20:23 23:22 overseer 71:10 overseers 71:7 oversight 61:3 62:14, 17 63:17 73:19 ownership 61:8 82:12 owning 10:3</p> <p>< P > P3 14:13 15:3, 4, 10 53:20 76:9, 15 78:16 81:3 82:4 86:7 87:5 P3s 13:10 14:25 15:7, 14, 15 86:23 pages 3:8 pandemic 24:24 38:2 parallel 25:23 77:4 paraphrasing 34:8 Pardon 69:22 Park 85:25 part 25:4 28:13 31:2 47:19</p>	<p>70:2 75:9 78:25 85:2 participants 1:15 2:7 4:19, 25 participated 7:10 particular 38:5 48:17 68:9 71:25 72:9 partner 9:9 15:4 76:24 partnership 9:8 11:3 60:2 61:10 75:1 85:4 partnerships 11:12 parts 71:24 party 84:22 pass 44:10 77:2, 15 80:14 passed 55:6 path 78:18 pattern 44:1 51:22 paying 61:5 payment 56:24 payments 56:25 57:5, 8 61:5 Pedestrian 7:2 penalties 57:11 penalty 72:15 people 24:24 25:24 34:16 38:1 42:2 43:17 44:1, 3, 13 48:24 51:16 53:24 61:23 62:5 65:9, 10 86:13 people's 40:4 perceive 52:24 perfect 36:3 perform 22:22 performed 28:14 performing 62:23 performs 64:8 period 15:22, 24 19:13 20:3, 4 21:16, 23 24:23 25:3 33:3 55:1 perjury 5:15 permanent</p>
--	--	---	---	---

<p>23:23 permitted 40:22 persist 19:13 25:20 persistence 65:6 persistent 65:7 persists 19:23 person 5:10 perspective 39:17 59:11 Peter 2:11 phase 33:10 34:10, 19 36:2, 5 41:1, 6 57:25 81:20 phases 36:7 phrase 18:11 picture 62:25 piece 23:23 74:22 place 5:14 9:15 36:10 53:21 75:21 81:1 89:6 placed 60:22 plans 36:10 point 45:8 points 70:6 political 31:24 79:11 politician's 39:17 poor 71:15 portion 80:5 portions 71:20 position 73:1 positive 11:11, 13 21:18, 20 39:12, 21 44:15 53:5 54:14 60:3 78:13 86:4 positivity 10:18 23:6 possibility 69:13 possible 19:1 64:9 posted 4:14 potential 52:12 67:21 78:13 84:1 86:23 87:15 potentially 11:11 40:16 54:10 68:2</p>	<p>70:7, 10 72:13 87:5 power 25:6, 7 43:17 powers 41:22 precaution 41:13 precisely 29:6 pre-dated 57:25 preferred 76:3 prelaunch 21:9 pre-launch 21:16 preliminary 80:1 PRESENT 2:19 presentation 45:14 presentations 36:17 presenters 89:9 preserve 51:23 press 30:7 34:16 71:3 pressure 37:12, 13, 15, 23 38:6, 15, 18, 19, 20, 24 39:2 40:2, 16, 22 42:9 59:18 60:12 79:12 81:7 82:2, 5 prevailing 18:3 prevent 83:22 previous 84:24 previously 7:15 22:21 24:5 37:14 41:18 44:20 59:6 64:13 74:14 84:13 price 14:7 primarily 76:1 prior 25:11 35:1 36:7 37:22 38:8 41:6 45:7 51:2, 3, 12, 18 67:13 79:5 81:9, 12, 19, 21 83:6 private 9:9 11:17 15:5 16:16 72:10 76:24 77:14 82:18 85:18, 19, 20, 21 87:12 privately 26:18</p>	<p>privatization 16:20 17:6 75:8 76:1 85:25 privatize 86:21 privilege 26:19 privy 69:25 proactive 50:23 problem 13:9 26:25 41:19, 20 problems 9:11 23:25 25:17 33:24 41:5 62:19, 24, 25 63:9 79:18 81:19 procedural 4:12 proceed 42:10 proceeded 66:21 proceeding 19:18 20:8 proceedings 5:9, 13 77:6 89:5 process 10:21 18:12 36:21, 25 37:1, 11 81:6 procured 78:6 82:24 85:15, 16 procurement 10:16, 21 12:15 15:2 24:9 41:16 52:8, 10, 13 56:10 57:25 58:4 61:2 74:24 76:3, 9, 15 78:3, 16 80:7 81:6 83:17 85:7, 14 86:14, 25 87:7 procuring 51:17 78:14 produce 14:16 29:17 48:3 56:7 produced 3:2, 7 14:24 54:21 56:15 58:17 67:17 products 15:6 professional 6:8 progress 20:12 progression 10:23 17:9 project 6:23 9:7 12:19</p>	<p>21:19 28:8 44:6 57:12 61:6 64:12 66:21 67:23 70:18 71:20 72:18 74:20 79:25 80:2, 23 81:5, 11 82:3, 25 84:25 85:14 86:7 projects 74:17 85:21 86:3 87:12, 13 proof 45:21 53:3, 6 65:19 proper 35:5 41:13 76:4 properly 60:22 proprietary 21:13 46:25 prosecution 5:14 proven 58:10 provide 4:5 25:23 43:12 47:21 48:25 49:13 79:25 provided 23:3 26:23 32:20 34:6 49:11 provider 26:11 provision 87:12 PTAC 7:20 PTAC's 7:22 Public 4:11 5:4 9:13 10:24 12:13 13:5 14:19 15:2 16:7 18:7, 18 19:8, 9 32:23, 24 33:2 35:19 36:22 38:16, 20 39:2 40:18, 23 43:7 44:24 47:10 48:8 52:23 55:2 56:18 57:14 59:10, 25 60:12 66:8, 13, 14 67:21 68:12, 16 69:17 70:4 71:16 73:5 76:20, 23 77:13 78:3 81:8 82:3</p>	<p>84:16 85:22 87:13 publicly 28:11 35:21 39:24 42:23 78:14 82:24 public-private 9:7 11:3, 12 61:10 75:1 85:3 pull 53:12 purchase 11:19 13:25 14:3 58:14 purchased 14:5 79:5, 9 purpose 4:6 72:24 87:10 purposes 71:17 pursuant 5:3 push 11:3 18:22 30:19 39:13 41:12 74:25 76:1 80:5, 6 81:13 85:11 pushback 51:4 pushed 39:5 62:3 pushing 16:19 39:16 put 7:24 9:4 36:10 39:3 40:4, 6 50:2 60:14, 17 77:20 81:14 84:5 89:7 putting 38:24 77:13 < Q > quality 15:5 question 5:6, 18 22:11 28:21 47:14 65:18 80:20 83:18 questions 4:8 5:20 18:19 24:24 33:1 34:6 48:7 49:14 57:16 78:20 87:19 quickest 86:5 quickly 46:12 quite 70:8 < R ></p>
--	---	---	---	---

<p>R1 25:7, 13, 18, 22 radius 24:19 rah-rah 43:6 RAIL 1:6 24:25 raise 30:18 raised 29:15 31:3 35:23, 24 36:2 41:2 47:3, 6 71:19 raising 46:20 ramp 70:3 ramping 66:13 68:15 rates 15:5 53:7 reacting 32:13 reaction 20:19 reactive 20:17 23:5 29:20 read 11:7 37:24 55:16 66:16 75:11 76:5 78:17 86:11 reading 16:2 75:25 ready 37:3, 8 38:25 67:2 70:9 real 14:1 17:12 30:18 34:1 51:7 62:17 63:9 realize 57:24 really 9:3 14:21 16:19 19:22 30:2 31:10 39:16 41:1 43:14, 20 44:14, 17 45:1 64:20 71:11 85:13 86:15 reason 46:17 50:8 73:15 83:2 reasons 14:15 reassess 85:14 recall 7:25 8:1 28:18 36:1 38:10 47:17 50:8 56:22 68:17 receivable 5:12 receive 21:8 23:1 30:22 47:14 received 7:6 28:2 29:23</p>	<p>30:24 32:8 35:16 50:20 51:1, 12 71:14 receives 29:21 receiving 30:12 42:14 46:9, 10 47:14 48:7, 10, 12 50:19 52:18 recollection 47:25 69:21, 23, 25 recommendation 87:16 recommendation s 54:13 83:21, 23 84:1, 10 87:15 recommended 53:20, 22 record 8:3 22:7, 9 56:19 recorded 55:17 89:11 red 41:2 65:9 redacted 71:21 reduced 37:16, 17 reducing 77:12 reduction 68:20 reestablish 73:14 refer 25:21 reference 15:10 57:20 58:9 66:10, 16 67:22 68:1, 4 referenced 34:14 42:13 45:2 76:16 86:17 references 78:16 referencing 15:22 referred 32:14 referring 8:17, 21 10:13 11:6 12:9, 12, 17 18:13, 15 23:19 25:22 29:13 42:17 45:5 46:11 54:18, 20 56:16, 20 67:11 74:10 76:12 refused 30:9, 13</p>	<p>refusing 28:25 29:13 regard 7:7 60:15 63:18 regarding 49:13 regular 62:21 rejected 70:16 relate 69:6 related 15:8 25:10 28:11 52:9 58:23 69:1 70:22 relations 6:17 73:25 74:9, 15 relationship 59:13, 16 60:5 release 50:7 released 42:1 50:9 54:24 relevant 52:6 58:24 81:17 Reliance 61:15 reliant 82:18 remember 39:11 48:14 49:19, 21, 24 69:12 71:6 remotely 1:15 removed 49:7 80:13 reparation 8:13 repeatedly 31:3 79:17 replacement 24:6 replacements 24:3 report 12:25 21:2 31:14 41:16 53:16, 24 54:1, 4, 7, 15, 16, 18, 20, 24 55:3, 8, 23 63:3, 20, 21 74:22 reportedly 25:15 reporter 23:3 89:4 Reporter's 22:2 55:15 89:1 reporting 20:11 22:14 34:24 35:9 reports 11:7, 24 12:13, 22 13:4, 5 14:12, 24</p>	<p>15:12 16:3, 7, 22 17:5 18:8, 16 19:8 21:1 22:21 30:24 37:25 42:21 43:1 53:6 55:12, 13 59:10 71:12 75:8, 11, 16, 25 78:15, 17 84:8, 14 85:8, 9 86:10 reputational 31:25 44:9 51:23 request 5:1 21:5 28:17, 19 56:2 67:9 requested 21:4 29:9, 23 30:6 46:17, 18, 23 requesting 9:14 35:20 71:4 requests 28:20 76:21 require 22:16 required 5:16 22:18 71:10 research 16:13 residents 9:4 72:16 73:9, 12 84:5 resignation 9:23 resolving 63:14 respect 7:10 19:12 26:22 45:3 63:23 68:11 respond 9:20 response 42:24 47:13 48:6, 12, 14 67:10 responses 49:8 responsibility 11:21 restart 36:16, 18 restored 72:16 result 8:9 9:4 12:4 39:1 40:5, 6 50:14 53:6 80:13 84:5 results 14:16 29:17 62:6 retain 63:24 retainer 64:2, 24 retirements 9:24</p>	<p>reveal 46:21 53:1 62:21 revealed 81:23 revealing 9:10 revelations 33:13 revenue 36:14 57:1 82:15 review 4:23 9:16 53:11 54:7 55:11 63:25 64:11, 14, 20 85:7 reviewed 54:3 reviews 15:14 Reynolds 2:12, 15 riding 39:11 rigorous 14:1 37:1 risk 6:13, 14 9:4, 5 10:12, 14, 19, 21 11:9, 16, 21 13:2, 4, 18 14:7, 20, 25 15:15 18:17 31:23, 24, 25 40:4, 6, 10 42:6 43:3 44:9 51:23 76:4 77:4, 12 84:4, 5 85:16 risks 10:13, 15 11:1, 4 12:17, 18, 23, 24 13:1, 8, 11, 12, 13, 15 14:11 15:3, 10 16:10 31:21 77:3, 13 78:13 road 61:9 Robyn 74:13, 16 role 9:21 72:21 rollout 76:8 root 30:24, 25 31:4, 9 Rose 74:4 route 80:25 Routes 37:17 RPR 89:3, 19 RTG 23:8 28:12 37:7 38:25 44:20, 21, 23 59:14, 25 60:14, 18, 25 66:17 67:9, 15</p>
--	---	---	---	--

68:2 69:15 70:15 82:6 RTM 33:22 44:22 61:1, 18 rug 44:15 run 14:4 25:23 55:1 77:4 running 12:7 24:25 25:1, 5, 16 38:25 39:18 55:1 68:23 69:7 rush 10:8 18:25 79:10, 11 80:21 83:3 rushed 18:21, 23 rushing 83:6 < S > safety 40:4 44:5 45:3, 5, 21 46:7 55:10, 11 62:7, 11 63:4, 19 Sam 63:21 74:1 savings 77:14 80:12 scant 10:19 11:9 scenarios 43:4 score 51:20 scratch 27:18 Section 5:3, 16, 18 10:19 12:23, 24 sections 24:4 72:5 sector 11:17 14:19 15:5 16:17 76:24 77:13, 14 81:8 82:3, 18 85:19, 21, 22 sector-driven 85:18 selection 19:18 selling 21:19 send 47:19 50:12 83:14 sending 21:21 35:20 senior 45:9 47:11 September 36:22 38:13 67:15 68:13	69:17 70:4 series 26:3 serve 14:18 84:25 served 72:25 service 8:10 25:8, 11, 13, 22, 23 36:15, 22 39:20 40:18, 23 55:2 57:1, 12 58:10 61:1 66:9, 12, 13, 14 67:21 68:12, 15, 16 69:17 70:4 72:15 77:5 82:15 services 86:21 serving 6:9 84:22 session 24:10 36:5 84:17 sessions 31:18 33:2 set 12:5 81:10 87:9 89:6 sets 14:21 settings 72:10 severe 20:21 27:7 73:4 severity 45:15 shape 33:12 34:11, 20 35:13 share 27:12 75:24 87:16 shared 4:18, 24 67:12 sharing 46:23 SHAWN 1:7 2:9 4:3 5:22 6:3, 6, 10, 25 7:12, 25 8:8, 18 9:1 10:15 12:13, 21 15:12 16:2 18:15 19:16 20:16 22:12 23:20 26:1, 7, 25 27:19, 25 28:17 29:14 30:2 32:12, 17, 22 34:13, 17, 23 35:15 36:13, 24 38:17 40:24 42:20 44:4 45:6 46:16	47:16, 23 48:2 50:1, 16, 22 53:15 54:5, 12, 22 55:6, 18 56:2, 17 57:5, 7, 23 58:5, 13 59:15 60:7, 19, 23 63:22 64:3, 16 65:3, 18 66:15 67:12, 25 68:17 69:18, 20, 24 70:5 71:2, 11, 24 72:23 73:2, 20, 22 74:11, 21 75:6 76:13, 17 78:1 79:2 81:2 82:5 84:2 85:2 86:19 87:17 88:3 shelf 14:1 58:15 shift 80:20 Shorthand 89:4, 13 shortly 62:8 show 16:7 39:19 67:9 73:10 showcased 86:4 showed 46:7 showing 16:9 shows 28:6 shut 78:8 79:16 shutdown 40:25 42:15 shutdowns 79:14, 19 side 16:9 36:11 sign 37:4, 5, 6 signal 9:22 signed 81:3 82:19 signing 12:15 similar 30:3 similarities 82:11 Singleton 2:12, 15 Sitting 40:19 47:24 73:17 77:23 situation 15:8 42:13	situations 12:3 35:22 slower 69:16 70:3 slowly 68:15 small 24:18 53:21 soft 66:10, 18 68:3 softer 70:8 sold 61:10 sole 80:2 solidified 45:1 solve 70:25 somebody 16:9 28:7 63:2 73:11 74:23 soon 19:1 39:25 sooner 38:22 sorry 8:1 48:20 57:5 67:1 74:5 75:3, 5 sort 7:22 11:9 20:3 34:15 49:9 50:14 55:4, 12, 24 62:10 66:9 sorts 52:2 sought 32:20 source 15:9 80:2 sources 46:15 52:19 speak 43:17 52:6 59:10 62:15 specialist 6:14 specific 12:17 59:3, 8 71:21 74:18 83:23 87:10, 14 specifically 31:19 58:8 79:25 specs 58:16 spoken 29:22 72:2 spot 49:6 staff 12:2, 6 16:13 17:13 18:7 19:7 23:8 27:9, 13 28:15 29:14 32:9 33:1 38:21	41:12 42:24 43:10 45:9 46:11, 19 47:7, 15 48:4, 5 49:16, 23 50:21 51:5 52:15, 17 56:6, 15 70:16 71:14 77:5 81:18 84:7 Stage 6:23 7:11, 19 8:6, 18 20:12 21:9 27:14 38:8, 12 41:15 50:25 51:11, 20, 21 52:5, 6, 9, 13 53:13, 16 54:8 55:5, 6, 7, 9, 13, 19, 25 56:9, 12, 21 57:2, 9, 21, 25 58:4, 13, 23, 24 64:5 77:25 78:8, 12 80:2 83:4 87:1, 3 stages 8:13 56:22 stand 85:9 start 30:1 39:18 66:10 67:21 69:12, 16 started 4:7 27:18 44:19 59:14 60:6 61:21 starting 6:18 44:21 59:12, 17 state 26:21 statement 33:9 76:7, 8, 11, 16 77:20 statements 9:18 60:1 86:9 89:9 station 45:8, 12 stations 67:2, 4 69:2, 8, 14 steady 63:11 Stenographer/Tra nscriptionist 2:21 stenographically 89:11 step 50:17 72:21, 25 73:15 stop 32:10
--	---	--	--	--

<p>story 9:2 strategies 13:3 strategy 50:23 63:10 strongly 62:15 structures 18:13 stuff 21:19 47:1 48:20 STV 62:3 63:24 64:2 style 83:16 subcontractors 13:22 33:23 61:15 submissions 7:9, 13, 16, 22 subsequent 8:10 21:7 63:25 subservience 41:21 42:6 84:24 subservient 11:25 19:3 41:11 73:8 84:20 substantive 61:13 successful 36:12 sufficient 62:19 sugarcoat 46:4 suggest 83:24 suggestion 64:23 66:17 68:2, 10 70:15 suggestions 7:9, 22 Sunday 45:10 supplier 26:11 suppose 17:15 63:18 supposed 25:16 37:11 56:8 59:19 68:21, 22, 23 77:15 84:21 supposedly 77:12 sweeping 44:15 swept 43:19 switches 24:8, 14 25:9 system 10:24 11:4 16:20 20:18 23:22 24:16 25:14</p>	<p>26:8 28:15 29:3, 8 37:2, 8, 24 38:6, 25 40:8, 13, 17, 21 42:9 44:8 46:7 47:10 51:16, 17 53:4 55:12 58:22 62:14, 23 64:8 65:17, 21 66:7 69:6, 17 70:8, 23 71:7, 10, 15 73:19 74:25 77:25 79:6, 14, 16 80:7 82:12, 14 systematic 75:9 systemic 79:16 systems 27:15, 17 28:16 29:2, 16 < T > tactic 30:3, 5, 10 takeaway 50:14 talk 30:19, 20 38:1, 14 40:15 59:6 70:7 talked 29:19 59:8 63:5 79:15 80:18 87:3 talking 10:2 19:8 37:25 38:4 52:5 71:1 72:3 86:18 Tangentially 6:25 targeting 61:14 taxpayers 31:21 team 12:6 23:8 47:12 technical 46:4 51:20 Technician 2:22 temporary 25:11 tend 5:7, 8 tender 51:14 term 6:5 19:14 29:25 34:4 39:15 42:5 55:7 66:10 68:24 terms 8:14 15:16 17:16 19:10, 25 20:5,</p>	<p>18 22:15 24:13 29:25 30:12 33:4 39:14 40:5, 7 47:8 49:21 55:9, 12 56:9 58:5 61:11, 13, 23 68:21 69:7 74:3 77:10 82:13, 14, 21 83:9 86:24 87:12 test 22:1 tested 79:7 testing 14:2 21:23 22:19, 23 23:1 33:10 34:10, 19 35:1, 2, 10, 11, 19 36:2, 4, 11, 16, 18 37:4, 6 41:1, 6, 7 42:15, 17, 18, 19, 22 43:12 79:13 81:20, 21 texts 48:4 Thanks 88:2, 3 thing 39:7, 17 46:19 56:23 61:11 64:4 82:22 things 14:23 15:6 20:24 29:24 33:17 36:3 41:14 42:11 43:5, 18 46:6, 17 49:10, 15 51:6 52:3, 20 53:5 54:10 58:12 77:8 78:14 79:3 84:15 88:1 thinking 70:18 third 39:15 thoroughly 16:11 thought 17:1 thrust 9:8 time 7:4, 20 11:2, 15, 16 12:15 13:17, 18 15:22, 24 16:18, 20 17:13 18:3, 20 19:9, 13, 17, 22, 25 22:17 24:11, 23 25:1,</p>	<p>2 28:19 30:6 33:4 35:3, 14 36:3, 15 37:13, 16, 21, 22 38:1, 3 40:17 41:3, 13, 14 42:23 43:13 44:13, 20 46:11 48:15 50:5 52:20 54:11 58:1, 21 59:25 60:13 65:7, 25 66:14, 17 67:4 68:2, 16, 19 69:3 70:18 72:1, 17 73:2 75:24 76:2 79:12 80:3 81:22, 25 82:6, 24 85:15 87:22 88:2 89:6, 7, 10 times 16:5 18:8 39:24 42:25 46:2 65:11 timing 38:11 67:20 today 20:2 47:24 77:23 told 30:13 33:15, 16 34:21 49:21 51:3, 21 63:8 ton 17:11 tone 44:17, 19 topic 30:17 31:18 42:9 topics 87:24 totally 75:2 touch 64:11 87:23 town 38:1 TRA 62:9 64:1, 24 track 20:23 24:2, 4, 7, 13 25:9, 10 33:12 56:5 65:9 69:8 tracks 32:2 34:11, 20 35:13 traction 25:6 train 25:2, 3 30:9 31:13 33:11 34:10, 20 39:11 45:7, 11</p>	<p>69:7, 10 75:20 78:7 trains 13:25 14:3, 4 24:2 33:6, 11, 15, 23, 25 35:12 43:11 56:5 59:7 61:15 68:18 69:12 72:2 79:5, 9 transcribed 4:9 transcript 4:10, 14, 17, 23, 24 5:2 89:13 transfer 15:15 Transit 7:2 9:23 45:14 52:8 53:4 63:5 72:22 73:4 transparent 63:1 Transpo 45:9 Tremblay 45:12 trial 5:13 54:25 triple 26:9 28:6, 9 trotting 27:5 true 62:17, 18 trust 49:4 52:15, 16, 21, 23 73:14 truth 10:5 43:11, 17 46:2 51:3 63:8 trying 7:25 14:6, 19 24:12 28:18 32:1 35:15 38:10, 22 60:1 68:17 74:2 TSB 31:7, 15 46:1, 10, 13, 19 47:1, 15 49:22 50:4, 6 turn 24:19 turned 86:10, 12 turning 5:24 type 14:17 30:10 types 14:23 typos 4:23 < U > U/T 3:7 47:16 49:9 50:10 67:18</p>
---	--	--	--	---

Uhm-hmm 34:17
ultimately 7:24
underground
75:21
understand 6:1
18:10 32:17
38:9 45:7 57:8,
13 66:20 67:5
69:3 70:20
72:20
understanding
28:1 36:13, 17,
21 37:10 58:2,
25
understood
15:21 32:22
59:13
undertake 87:7
undertaken 3:1
76:10, 15
UNDERTAKINGS
3:5
unfolded 51:12
55:25
unfortunate
27:5 33:19 43:7
unfortunately
13:16 19:5
30:5, 11 33:16
43:18 62:23
unhappy 73:6
unprepared
47:10
unsafe 44:8
upset 44:25
urged 72:20
Urquhart 2:12,
15
utilized 87:5
utterly 23:12

< V >
value 14:25
15:2, 16 69:10
77:11 85:14
87:7
vehicles 59:2
vehicle 24:16
25:6 56:10
58:12
vehicles 25:12
57:20, 21 58:3,
6, 7, 9, 15, 16, 18
59:1

venue 30:14
VERITEXT 89:18
versus 10:25
50:4
vest 65:10
Vice-Chair 7:2
Videoconferenci
ng 1:14
view 20:10
34:19 35:12
41:14 54:6
60:21, 25 64:18
65:22 73:9
75:10 77:23
Virtual 2:22
22:3
Vogel 2:12, 15
voice 73:12
vote 32:7

< W >
wake 86:13
Wale 74:15
walked 26:2
wanted 16:23
27:23 46:22
58:6, 9, 11, 14
86:2 87:16, 19
wanting 43:17
wants 63:2
ward 45:18
83:5
Wardle 2:11
22:4 26:17
32:15 54:19
67:14 87:18, 20,
24 88:5
Wardle's 67:13
warranty 71:25
72:8
ways 86:5, 6
87:11
website 4:15
weekly 30:7
weeks 33:14
65:5 79:17
weighed 16:11
weighted 32:25
well-known
15:3 77:19
Westboro 73:5
wheel 61:20
willingness 70:2

winter 35:2, 10,
11 42:18, 22
59:5
wisdom 18:3
witness 5:4, 8,
11
wonder 65:1
won't 23:16
27:1 30:17
work 5:25 6:18
19:19 37:11
44:16 60:1
63:25 64:1
67:3, 6 69:13
72:13 74:19
77:17 79:1, 18
83:5
worked 6:11
43:8 78:4, 6
working 6:16
workings 62:22
works 69:2
world 14:1 78:2
worst 76:9, 14
writ 15:7
written 53:5, 17,
18, 19, 24 54:2
wrong 28:4
34:9 44:14
wrote 48:9

< Y >
yard 24:18
31:13
yeah 24:10
26:25 27:15
31:11 50:1
51:7 52:14
53:15 56:17
57:23 58:25
59:15 60:2, 7
69:22 75:23
79:23 84:2
year 59:23
80:12 81:14
years 6:12
17:2, 3 19:14

< Z >
Zoom 1:14

Transcript Corrections Requested by Witness

Transcript Reference (page #, line #)	Change Requested
Page 12, lines 2-7	Removal of the word “not” in the following sentence: And so I think in those situations, you're not going to get the best result, because you don't have challenge functions set up that are not appropriate on council, or on a staff team that was, I think, elated to try to get LRT up and running in Ottawa.
Page 13, line 25 – page 14, line 2	Removal of the phrase “off the shelf”: The purchase of brand new trains off the shelf , without first having rigorous real world testing.
Page 17, lines 10-12	Removal of the word “I guess”: I think there was, you know, influence without a, I guess , ton of challenge function back, and a real want and need from...
Page 55, lines 9-14	Removal of a portion of the witness' answer: But in terms of Stage 1, no, I don't --I think there's been, you know, safety -- independent safety experts brought in to review the system. But in terms of actual reports, and sort of Lessons Learned Reports, on Stage 2 we had one come.
Pages 63, line 22- page 64, line 2	Removal of acronym “STB”, and replaced with “STV”: With respect to the City's initial decision to retain STB to do some review work, and then the subsequent decision to have TRA do that work, why was it important to you that STB not be brought on for that retainer?
Page 83, lines 1- 19	Removal of the witness' answer in its entirety: I guess, you know, what is the -- what's the reason for that? Well, you know, I guess the rush that these contractors are feeling now in Stage 2, that I haven't seen, they have been asking me for night work over and over in my ward, because they were rushing prior to the announcement that it was going to be delayed. I just think there's a difference there in terms of, if it's your own employees doing it, you know, if it's your own contract, you -- I don't know. You may be more apt to say, "look, I'm going to delay this a little bit". My answer is not very good on this, maybe I can send you something else as I think more about it. But, you know, definitely there's something to be said about the style of procurement. Whether that would have led to a different launch date, I guess is the question. So I'll think about that some more.

*Any purely typographical corrections will be made in the body of the transcript.